

**PARKER HANNIFIN
CORPORATION
S-SERIES CONTRACTS
TERMS & CONDITIONS OF
PURCHASE ORDER**

Notes:

If this Order shows on its face that it is placed in support of a U.S. Government funded prime contract or subcontract, or if the Buyer otherwise notifies the Seller that this Order is placed under a U.S. Government prime contract or subcontract, the following clauses of the Federal Acquisition Regulations (FAR), and the Department of Defense Federal Acquisition Regulation Supplement (DFARS) apply and are incorporated herein by reference with the same force and effect as if set forth below in full text. These clauses apply to all firm-fixed price (FP), cost reimbursable (CR), and time & material/labor hour (TM/LH) purchase orders, as appropriate.

Full text versions of these clauses can be made available upon Seller's request to the Buyer's authorized representative. Additionally, full text versions of these clauses are available from the U.S. Government in searchable form on the World Wide Web (WWW) portion of the Internet. The sites to be contacted are: (1) For the FAR-<http://www.acquisition.gov/comp/far/index.html>; and (2) For the DFARS- <http://www.acq.osd.mil/dpap/dars/dfars/index.htm>.

Except as noted below, the following changes to the FAR and DFARS clauses are made for incorporation of these clauses into this Order:

“Contractor” or “prime contractor” shall mean “Seller.”

“Government” shall mean “Buyer.”

“Contracting Officer” shall mean “Buyer’s Purchasing Representative.”

“Contract” or “Schedule” shall mean this “Order.”

Seller agrees to flow-down, as required, all applicable FAR and DFARS clauses to its lower-tier suppliers. Seller further agrees that all notifications and other communications required by these clauses shall be made through the Buyer’s Purchasing Representative, unless this Order specifically provides otherwise.

Table of Content

Article	Description	Page
1	Definitions and Meanings	8
2	Contract Rights, Obligations and Disclaimers	9
3*	Delivery	9
4	Taxes	10
5*	Payments	10
6*	Changes	11
7	Liens	12
8*	Inspection	12-13
9*	Warranty (Fixed type orders) / Computer Hardware, Software and Firmware Review (Cost type orders)	14
10	Rights in Technical Data and Computer Software	16
11	Patent Rights – Ownership by the Government	18
12	Patent Rights – Small Business Firm or Nonprofit Organization	18
13	Furnished Information	18
14	Classified Information and Naval Nuclear Propulsion Information (NNPI)	18

TABLE OF CONTENTS

15	Title	18
16	Applicable Laws / Compliance with Law / Indemnification	19
17	Proprietary Information	19
18	Assignment	19
19	Set-Off	19
20	Permits	20
21	Special Materials	20
22	Suspension of Work for the Convenience of the Buyer	20
23	Work Indemnifications	20
24	Use of Government Property, Special Tooling, or Special Test Equipment	20
25	Preproduction Costs	21
26*	<u>C l a u s e s I n c o r p o r a t e d b y R e f e r e n c e</u>	
	a. Incorporated in Purchase Orders at All Dollar Levels	
	FAR 52.202-1, Definitions	27
	FAR 52.203-3, Gratuities	27
	FAR 52.203-5 Covenant Against Contingent Fees (Apr 1984)	
	FAR 52.203-6 Restrictions on Subcontractor Sales to the Government	
	FAR 52.203-7 Anti-Kickback Procedures (Oct 2010) This clause applies if this Order exceeds \$150,000, except that paragraph ©(1) of FAR 52.203-7 is not included in this Order. Paragraph ©(4) is revised by deleting “the Contracting Officer may” and inserting “To the extent the Contracting Officer has effected an offset at the prime contract level or has directed Buyer to withhold any sum from the Seller, Buyer may ...”	
	FAR 52.203-11 Certification and Disclosure Regarding Payments to Influence Certain Federal Transaction (Sep 2007)	
	FAR 52.203-12 Limitation on Payments to Influence Certain Federal Transactions (Sept 2010)	
	FAR 52.203-13 Contractor Code of Business Ethics and Conduct (Dec 2008) For orders exceeding \$5,000,000 and a period of performance greater than 120 days. The seller agrees to grant Parker Hannifin (PH) the right to conduct a reasonable audit or investigation at the premises of the seller, with full access to appropriate books and records of the subcontractor, for the purpose of implementing the requirements of FAR provision 52.203-13. Notwithstanding the above threshold, for purchase orders or subcontracts (including all long term agreements) with a cumulative value of \$1M or more the seller shall distribute PH GPM Policy GB 01-04, entitled “U.S. Government Contract Compliance-Mandatory Disclosure of Violation of Law to the Government” and the PH “ Policy on contracting with the United States Government” to all personnel most directly involved in the performance of the purchase order or subcontract, including those having primary management or supervisory responsibilities. The seller shall insure that all such individuals have both read and understood the contents of these documents.	
	FAR 52.204-2, Security Requirements	27
	FAR 52.204-4, Printing/Copying Double Sided on Recycled Paper	25
	FAR 52.204-9 Personal Identity Verification of Contractor Personnel	27

TAC-2011

Revision Original (dated March 2011)

TABLE OF CONTENTS

	FAR 52.204-10 Reporting Executive Compensation and First-Tier Subcontract Awards (Jul 2010)	27
	FAR 52.209-6 Protecting the Government's Interest when Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (Dec 2010)	27
	FAR 52.211-5, Material Requirements	27
	FAR 52.211-15, Defense Priority and Allocation Requirements	27
	FAR 52.214-26 Audit and Records – Sealed Bidding (March 2009)	27
	FAR 52.214-27 Price Reduction for Defective Cost or Pricing Data Modifications – Sealed Bidding (Oct 1997)	27
	FAR 52.214-28 Subcontract Cost or Pricing Data – Modifications – Sealed Bidding	27
	FAR 52.215-2 Audit and Records – Negotiations (Oct 2010)	27
	FAR 52.215-10 Price Reduction for Defective Certified Cost or Pricing Data (Oct 2010)	27
	FAR 52.215-11 Price Reduction for Defective Cost or Pricing Data – Modifications (Oct 1997)	27
	FAR 52.215-12 Subcontractor Certified Cost or Pricing Data (Oct 2010)	27
	FAR 52.215-13 Subcontractor Cost or Pricing Data – Modifications (Oct 1997)	27
	FAR 52.215-14 Integrity of Unit Prices (Oct 2010)	27
	FAR 52.215-18 Reversion of Adjustment of Plans for Postretirement Benefits (PRB) Other Than Pensions (Jul 2005)	27
	FAR 52.215-19 Notification of Ownership Changes	27

TAC-2011

Revision Original (dated March 2011)

TABLE OF CONTENTS

FAR 52.215-22 Limitation of Pass-Through Charges – Identification of Subcontract Effort	28
FAR 52.215-23 Limitation of Pass-Through Charges (Oct 2009)	28
FAR 52.216-7 Allowable Cost and Payment (Dec 2002)	28
FAR 52.216-8 Fixed Fee (Mar 1997)	28
FAR 52.216-24 Limitation of Government Liability	28
FAR 52.216-25 & Alt. I Contract Definitization (Including Alternate I) (Oct 1997)	28
FAR 52.216-26 Payments of Allowable Costs Before Definitization	28
FAR 52.219-8 Utilization of Small Business Concerns (Jan 2011)	28
FAR 52.219-9 Small Business Subcontracting Plan	28
FAR 52.219-16 Liquidated Damages – Subcontracting Plan (Jan 1999)	28
FAR 52.222-1, Notice to the Government of Labor Disputes	28
FAR 52.222-4 Contract Work Hours and Safety Standards Act – Overtime Compensation (Jul 2005)	28
FAR 52.222-19 Child Labor – Cooperation with Authorities and Remedies	28
FAR 52.222.20 Walsh-Healey Public Contracts Act (Oct 2010)	28
FAR 52.222.21, Prohibition of Segregated Facilities	28
FAR 52.222-26, Equal Opportunity	26
FAR 52.222-35 Equal Opportunity for Veterans (Sep 2010)	28
FAR 52.222-36 Affirmative Action for Workers with Disabilities	28
FAR 52.222-37 Employment Reports on Veterans (Sep 2010)	28
FAR 52.222-50, Combating Trafficking in Persons	28
FAR 52.223-3, Hazardous Material Identification and Material Safety Data	28
FAR 52.223-7, Notice of Radioactive Materials	28
FAR 52.223-11, Ozone-Depleting Substances	28
FAR 52.223-14 Toxic Chemical Release Reporting (Aug 2003)	
FAR 52.223-18 Contractor Policy to Ban Text Messaging While Driving (Sep 2010)	28
FAR 52.225-1 Buy American Act- Supplies	28
FAR 52.225-3 Buy American Act- Free Trade Agreements – Israeli Trade Act	29
FAR 52.225-5 Trade Agreements (Aug 2009)	29
FAR 52.225-7 Waiver of Buy American Act for Civil Aircraft and Related Articles (Feb 2000)	29
FAR 52.225-8 Duty-Free Entry	29
FAR 52.225-13, Restrictions on Certain Foreign Purchases	29
FAR 52.227-1 Authorization and Consent (Dec 2007)	29
FAR 52.227-2 Notice and Assistance Regarding Patent and Copyright Infringement	29
FAR 52.227-3, Patent Indemnity	29
FAR 52.227-9, Refund of Royalties	29

TAC-2011

Revision Original (dated March 2011)

TABLE OF CONTENTS

	FAR 52.227-10, Filing of Patent Applications – Classified Subject Matter	29
	FAR 52.227-14 Rights in Data – General (Dec 2007)	29
	FAR 52.229-3 Federal, State, and Local Taxes (Apr 2003)	29
	FAR 52.230-2 Cost Accounting Standards (Oct 2008)	29
	FAR 52.230-3 Disclosure and Consistency of Cost Accounting Practices (Oct 2008)	29
	FAR 52.230-6 Administration of Cost Accounting Standards (Jun 2010)	29
	FAR 52.232-16 Progress Payments	29
	FAR 52.232-17, Interest	29
	FAR 52.232-20 Limitation of Costs (Apr 1984)	29
	FAR 52.232-22 Limitation of Funds (Apr 1984)	29
	FAR 52.234-1, Industrial Resources Developed Under Defense Production Act, Title III	30
	FAR 52.242-1 Notice of Intent to Disallow Costs (Apr 1984)	30
	FAR 52.242-15 Stop Work Order (Aug 1989)	30
	FAR 52.242-17 Government Delay of Work (Apr 1984)	30
	FAR 52.243-1 Changes- Fixed Price (Aug 1987)	30
	FAR 52.244-5 Competition in Subcontracting (Dec 1996)	30
	FAR 52.244-6, Subcontracts for Commercial Items and Commercial Components	30
	FAR 52.245-1, Government Property (with Alternate I when the conditions of FAR 45.107(a)(2) with reference to FAR 45.104(a) are met.)	30
	FAR 52.245-9, Use and Charges	30
	FAR 52.246-2 Inspection of Supplies – Fixed Price (Aug 1996)	30
	FAR 52.246-16 Responsibility for Supplies (Apr 1984)	30
	FAR 52.246-23, Limitation of Liability	30
	FAR 52.246-25, Limitation of Liability – Services	30
	FAR 52.247-63, Preference for U.S. Flag Air Carriers	30
	FAR 52.247-64 Preference for Privately Owned U.S. Flag Commercial Vessels	30
	FAR 52.248-1 Value Engineering (Oct 2010)	30
	FAR 52.249-1 Termination for Convenience of the Government (Fixed Price) (Short Form) (Apr 1984)	30
	FAR 52.248-2 Termination for Convenience of the Government (May 2004)	30
	FAR 52.249-8, Default (Fixed Price Supply and Service)	30

TAC-2011

Revision Original (dated March 2011)

TABLE OF CONTENTS

	FAR 52.253-1, Computer Generated Forms	30
	DFARS 252.203-7000, Requirements Relating to Compensation of Former DOD Officials	30
	DFARS 252.203-7001 Prohibition on Persons Convicted Fraud of Other Defense-Contract-Related Felonies	30
	DFARS 252.203-7002, Requirement to Inform Employees of Whistleblower	30
	DFARS 252.204-7000, Disclosure of Information	30
	DFARS 252.204.7008 Export-Controlled Items (Apr 2010)	30
	DFARS 252.204-7010, Requirement for Contractor to Notify DOD if the Contractor's Activities are Subject to Reporting Under the U.S. International Atomic Energy Agency Additional Protocol	30
	DFARS 252.211-7000 Acquisition Streamlining (Dec 1991)	31
	DFARS 252.211-7003 Item Identification and Evaluation	31
	DFARS 252.215-7002 Cost Estimating System Requirements (Dec 2006)	31
	DFARS 252.219-7003 Small Disadvantaged and Woman – Owned Small	31
	DFARS 252.222-7006 Restrictions on the Use of Mandatory Arbitration Agreements (Dec 2010)	31
	DFARS 252.222-7999 Additional Requirements and Responsibly	31
	DFARS 252.225-7012 Preference for Certain Domestic Commodities	31
	DFARS 252.223-7004 Drug – Free Force (Sep 1988)	31
	DFARS 252.223-7006, Prohibition on Storage and Disposal of Toxic and Hazardous Materials	31
	DFARS 252.223-7008 Prohibition of Hexavalent Chromium	31
	DFARS 252.223-7001 Hazard Warning Labels (Dec 1991)	31
	DFARS 252.225-7001, Buy American Act and Balance of Payments Program	31
	DFARS 252.225-7002, Qualifying Country Sources as Subcontractors	31
	DFARS 252.225-7004 Report of Intended Performance Outside the United States and Canada- Submission after Award (Oct 2010)	31
	DFARS 252.225-7006 Quarterly Reporting of Actual Contract Performance Outside the United States (Oct 2010)	31

TABLE OF CONTENTS

	DFARS 252.225-7013, Duty Free Entry	31
	DFARS 252.225-7016, Restriction on Acquisition of Ball and Roller Bearings	31
	DFARS 252.225-7021 Trade Agreements (July 2009)	31
	DFARS 252.225-7025, Restriction on Acquisition of Forgings	31
	DFARS 252.225-7031, Secondary Arab Boycott of Israel	31
	DFARS 252.225-7036 Buy American Act- Free Trade Agreements- Balance	31
	DFARS 252.226-7001 Utilization of Indian Organization, Indian-owned Economic Enterprises, and Native Hawaiian Small Business Concerns (Sep 2004)	31
	DFARS 252.227-7013 Rights in Technical Data-Noncommercial Items (Nov 1995)	31
	DFARS 252.227-7014 Rights in Noncommercial Computer	31
	DFARS 252.227-7015 Technical Data—Commercial Items (Nov 1995)	31
	DFARS 252.227-7016 Rights in Bid or Proposal Information (Jun 1995)	31
	DFARS 252.227-7017 Identification and Assertion of Use, Release, or	31
	DFARS 252.227-7019 Validation of Asserted Restrictions - Computer	32
	DFARS 252.227-7025 Limitation on the Use or Disclosure of Government furnished Information Marked with Restrictive	32
	DFARS 252.227-7030 Technical Data—Withholding of Payment	32
	DFARS 252.227-7037 Validation of Restrictive Markings on Technical Data	32
	DFARS 252.231-7000 Supplemental Cost Principles (Dec 1991)	32
	DFARS 252.243-7001 Pricing of Contract Modifications (Dec 1991)	32
	DFARS 252.243-7002 Requests for Equitable Adjustment (Mar 1998)	32
	DFARS 252.244-7000 Subcontracts for Commercial Items and Commercial Components (DoD Contracts) (Nov 2010)	32
	DFARS 252.246-7001 Alt I Warranty of Data – Alternate I (Dec 1991)	32
	DFARS 252.244-7000, Subcontracts for Commercial Items and Commercial Components	32
	DFARS 252.246-7003, Notification of Potential Safety Issues	32
	DFARS 252.247-7023 Transportation of Supplies by Sea	32
	DFARS 252.247-7024 Notification of Transportation of Supplies by	32
	DFARS 252.249-7002 Notification of Anticipated Contract	32
	b. Incorporated in Purchase Orders Exceeding \$3,000	
	FAR 52.219-28, Post-Award Small Business Program Representations	32
	FAR 52.222-54, Employment Eligibility Verification (applies only to commercial or non-commercial services; except for	32

TABLE OF CONTENTS

	c. Incorporated in Purchase Orders Equal to or Exceeding \$10,000	
	FAR 52.222-20, Walsh – Healy Public Contracts Act	32
	FAR 52.222-26 Equal Opportunity	32
	FAR 52.222-36, Affirmative Action for Workers with Disabilities	32
	FAR 52.222-40 Notification of Employee Rights under the National Labor Relations Act (Dec 2010)	33
	d. Incorporated in Purchase Orders Equal to or Exceeding \$15,000	
	FAR 52.222.20, Walsh-Healy Public Contracts Act	33
	e. Incorporated in Purchase Orders Exceeding \$30,000	
	FAR 52.209-6 Protecting the Government's Interest When	33
	DFARS 252.209-7004, Subcontracting with Firms That Are	33
	f. Incorporated in Purchase Orders Equal to or Exceeding \$100,000	
	FAR 52.203-5 Covenant Against Contingent Fees	33
	FAR 52.203-6 Restrictions on Subcontractor Sales to the Government	33
	FAR 52.203-7 Anti-Kickback Procedures	33
	FAR 52.203-8 Cancellation, Rescission and Recovery of Funds for	33
	FAR 52.203-10 Price or Fee Adjustments for Illegal or Improper Activity	33
	FAR 52.203-12 Limitation on Payments to Influence Certain Federal	33
	FAR 52.215-2 Audit and Records - Negotiations	33
	FAR 52.215-14 Integrity of Unit Prices	33
	FAR 52.219-4 Price Evaluation Preference for HUBZone Small Business	33
	FAR 52.219-8 Utilization of Small Business Concerns	34
	FAR 52.222-2, Payment of Overtime Premiums (applicable solely to cost type orders)	34
	FAR 52.222-4 Contract Work Hours & Safety Standards Act Overtime Compensation	34
	FAR 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era and Other Eligible	34
	FAR 52.222-36 Affirmative Action for Workers with Disabilities (Oct 2010)	34
	FAR 52.222-37, Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era and Other Eligible Veterans	34

TABLE OF CONTENTS

	FAR 52.222-39 Notification of Employee Rights Concerning Payment of Union Dues or Fees	34
	FAR 52.223-14, Toxic Chemical Release Reporting	34
	FAR 52.227-2 Notice and Assistance regarding Patent and Copyright Infringement	34
	FAR 52.242-13 Bankruptcy	34
	FAR 52.244-5 Competition in Subcontracting	34
	FAR 52.248-1 Value Engineering	34
	DFARS 252.203-7001 Prohibition on Persons Convicted of Fraud	34
	DFARS 252-225-7012 Preference for Certain Domestic	34
	DFARS 252.225-7015 Restriction on Acquisition of Hand or measuring tools	34
	DFARS 252.247-7023 Transportation of Supplies by Sea	34
	DFARS 252.247-7024, Notification of Transportation of Supplies by Sea	34
	g. Incorporated in Purchase Orders Equal to or Exceeding	
	FAR 52.203-5, Covenant Against Contingent Fees	34
	FAR 52.203-6, Restrictions on Subcontractor Sales to the Government	34
	FAR 52.203-7, Anti-Kickback Procedures	35
	FAR 52.203-8, Cancellation, Rescission and Recovery of Funds for Illegal or Improper Activity	35
	FAR 52.203-10, Price or Fee Adjustments for Illegal or Improper	35
	FAR 52.203-12, Limitation on Payments to Influence Certain Federal Transactions	36
	FAR 52.215-2, Audit and Records – Negotiations	36
	FAR 52.215-14, Integrity of Unit Prices	36
	FAR 52.219-8, Utilization of Small Business Concerns	36
	FAR 52.222-4, Contract Work Hours and Safety Standards Act –	36

TABLE OF CONTENTS

	FAR 52.222-38, Compliance with Veterans' Employment Reporting Requirements	36
	FAR 52.227-1, Authorization and Consent	36
	FAR 52.227-2, Notice and Assistance Regarding Patent and Copyright Infringement	36
	FAR 52.242-13, Bankruptcy	36
	FAR 52.244-5, Competition in Subcontracting	36
	FAR 52.248-1 Value Engineering	36
	DFARS 252.203-7001, Prohibition on Persons Convicted of Fraud or Other Defense-Contract-Related Felonies	36
	DFARS 252.225-7008, Restriction on Acquisition of Specialty Metals	36
	DFARS 252.225-7009, Restriction on Acquisition of Certain Articles Containing Specialty Metals	36
	DFARS 252.225-7012, Preference for Certain Domestic Commodities	36
	DFARS 252.225-7015, Restriction on Acquisition of Hand or Measuring Tools	36
	DFARS 252.247-7023, Transportation of Supplies by Sea	36
	DFARS 252.247-7024, Notification of Transportation of Supplies by Sea	36
	h. Incorporated in Purchase Orders Equal to or Exceeding \$500,000	
	DFARS 252.226-7001, Utilization of Indian-Owned Economic Enterprises and Native Hawaiian Small Business Concerns	36
	i. Incorporated in Purchase Orders Equal to or Exceeding \$550,000	
	FAR 52.219-9 Small Business Subcontracting Plan & Alt. 11	36
	DFARS 252.219-7003 Small Business Subcontracting Plan	36
	DFARS 252.225-7004 Report of Intended Performance Outside the United States & Canada	37
	DFARS 252.225-7006 Quarterly Reporting of Actual Contract Performance Outside the United States	37
	DFARS 252.249-7002, Notification of Anticipated Contract Terminations or Reductions	37
	j. Incorporated in Purchase Orders Equal to or Exceeding \$650,000	
	FAR 52.215-10 Price Reduction for Defective Cost or Pricing Data	37
	FAR 52.215-12, Subcontractor Cost or Pricing Data	37
	FAR 52.215-15, Pension Adjustments and Asset	37
	FAR 52.215-19 Notification of Ownership Changes	37
	FAR 52.215-21 Requirements for Cost or Pricing Data or Information Other than Cost or Pricing Data	37
	DFARS 252.215-7000 Pricing Adjustments	37
	DFARS 252.215-7004 Excessive Pass-Through Charges Cost Accounting Standards	37
	FAR 52.219-9, Small Business Subcontracting Plan and Alternate II	38
	DFARS 252.219-7003, Small Business Subcontracting Plan	38

TAC-2011

Revision Original (dated March 2011)

TABLE OF CONTENTS

	DFARS 252.225-7006, Quarterly Reporting of Actual Contract Performance Outside the United States	37
	Cost Accounting Standards	37
	k. Incorporated in Purchase Orders Equal to or Exceeding \$700,000	
	FAR 52.215-10, Price Reduction for Defective Cost or Pricing Data	37
	FAR 52.215-12, Subcontractor Cost or Pricing Data	37
	FAR 52.215-15, Pensions Adjustments and Asset Reversions	37
	FAR 52.215-18, Reversion or Adjustment of Plans for Post-Retirement Benefits (PRB) Other than Pensions	37
	FAR 52.215-19, Notification of Ownership Changes	37
	FAR 52.215-21, Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data – Modifications	37
	DFARS 252.215-7000, Pricing Adjustments	37
	I. Incorporated in Purchase Orders Equal to or Exceeding \$1,000,000	
	DFARS 252.211-7000, Acquisition Streamlining	37
	DFARS 252.222-7999 Additional Requirements and Responsibilities Restricting the Use of Mandatory Arbitration Agreements (DEVIATION-2010-00004) applies to FY10 funded actions only; does not apply to the acquisition of commercial items and commercial-off-the-shelf-items	38
	DFARS 252.222-7006, Restrictions on the use of Mandatory Arbitration Agreements	38

TAC-2011

Revision Original (dated March 2011)

TABLE OF CONTENTS

	m. Incorporated in Purchase Orders Exceeding \$5,000,000 and a performance period of greater than 120 days	
	FAR 52.203-13, Contractor Code of Business Ethics and Conduct	38
	n. Incorporated in Purchase Orders Exceeding \$12,500,000	
	DFARS 252.225-7004, Report of Intended Performance Outside the United States and Canada-Submission after Award	39
27	Cost Support and Certification Relative to Amendments	39
28	Pricing of Adjustments	39
29	Subtier Procurements	39
30*	Termination	39
31	Fraud or Falsification	39
32	Disclosure of Information	39
33	Reimbursement for Unallowable Costs	39

ATTACHMENT	DESCRIPTION
1	Technical Data and Computer Software Authorized Markings

ADDENDA	DESCRIPTION
A	TAC-2011 Addendum A: Cost Type Purchase Orders
8	Subtier Passdown Requirements

1. DEFINITIONS AND MEANINGS

a. As used throughout these terms and conditions, the following *definitions* shall apply:

1. **Government** means the United States of America.
2. **Navy** means the United States Department of the Navy and/or its duly authorized representatives.
3. **Cognizant Government Agency** means the Navy.
4. **Buyer** means the Prime Contractor responsible for the Purchase Order in which these Terms and Conditions are an applicable document.
5. **Seller** means the legal entity which has agreed to provide the goods or services required by this order.
6. **Purchase Order** means the contract document in which, and by acknowledgment thereof, Seller agrees to provide, for consideration stated therein, the goods and services in accordance with the requirements contained or referenced therein. The terms "order", "contract" or "subcontract" shall be synonymous with the term "purchase order".
7. **Change Order** means a unilateral direction by the Buyer to the Seller to proceed with the work as changed and to report the effect on the order pursuant to the provisions of Article 6, Changes.
8. **Amendment** means the contract document in which, and by acknowledgment thereof, the Seller agrees to modify the order in accordance with the provisions of the amendment.
9. **Subtier Subcontractor** means a supplier or subcontractor, including any supporting subtier supplier or subcontractor, who has a subcontract or order from the Seller or any subtier subcontractor.
10. **FAR** means the Federal Acquisition Regulation (located at Title 48 to the Code of Federal Regulations).
11. **DFARS** means the Defense Federal Acquisition Regulation Supplement (located at Title 48 to the Code of Federal Regulations).

b. Where a FAR or DFARS clause is incorporated by reference within these Terms and Conditions, then, except where the incorporation specifically provides for a different meaning, the following words shall have the following *meanings*:

1. **Contractor** shall mean **Seller**.
2. **Contract** shall mean **Purchase Order**.
3. **Government, Agency Head or Designee, Head of Contracting Activity or Designee, Contracting Officer** and **Administrative Contracting Officer** shall mean **Buyer**.

Note: Where the Clause/Article pertains to Property Rights (real, personal, intellectual or otherwise; title to, license of, lease of or otherwise), then the Clause/Article shall retain the original meaning of these terms and the following entities, their respective successors and assigns, shall possess the right to exercise said property rights, as if they were the Government, on behalf of the Government for the sole purpose of carrying out functions related to this purchase order: Bechtel Plant Machinery, Inc., Bechtel Marine Propulsion Corporation (Bettis and KAPL), General Dynamics Electric Boat, and Northrop Grumman - Newport News.

4. **Subcontract** shall mean **Subtier Order**

5. **Subcontractor** shall mean **Subtler Seller**.

Clauses and provisions of the FAR and DFARS, as indicated, in effect as of October 7, 2010 are incorporated by reference, with the same force and effect as if the clauses were provided in full text.

2. **CONTRACT RIGHTS, OBLIGATIONS AND DISCLAIMERS**

- a. **SCOPE OF AGREEMENT.** This purchase order (which term shall be deemed to include related plans, drawings, specifications, and other documents) contains the entire agreement of the parties, and no modification, alteration, waiver, or other provision which is inconsistent with or in addition to the provisions of this order shall have any force or effect unless the same shall be incorporated in the order in writing by the Buyer.
- b. **DISCLAIMER OF IMPLIED WARRANTIES: EXTRACTIONAL INFORMATION AND DOCUMENTS; NO WARRANTY OF ACCURACY AND COMPLETENESS.** Any and all documentation and information that Buyer may at any time (pre-award or post-award) provide to Seller that has not been incorporated within and made a part of this purchase order (whether identified as being "For Information" or otherwise) shall be (i) non-contractual, (ii) provided solely for information and (iii) provided "as is" and without warranty, expressed or implied, including, without limitation, the implied warranties of accuracy and completeness. Seller agrees that Buyer cannot waive this disclaimer except in a formal modification to this purchase order.
- c. **WAIVER AND SEVERABILITY.** The failure or delay of either party to insist on performance of any provision of this order, or to exercise any right or remedy available under this order, shall not be construed as a waiver of that provision, right or remedy in any later instance. Further, if any provision of this order is or becomes void or unenforceable by operation of law, the remaining provisions shall be valid and enforceable.
- d. **CONTRACT DISPUTES ACT INAPPLICABLE.** Notwithstanding any provision within these terms and conditions (whether incorporated by reference or provided in text) to the contrary, the Contract Disputes Act (41 USC 601-613, as may be subsequently amended) shall in no manner apply to this purchase order.

3. **DELIVERY**

All delivery requirements set forth in this order are firm. Seller agrees that delays during performance of the order which would cause delivery to extend beyond contractual delivery date(s), and which are the responsibility of Seller, must be made up by Seller at its expense through the use of whatever means are necessary including, but not limited to, overtime and additional work shifts.

If Seller notifies Buyer that Seller anticipates or is encountering difficulty in complying with the delivery schedule specified in this order or not meeting any other requirement of this order, such notification shall be for information only and its receipt by Buyer shall not be construed as a waiver by Buyer (i) of any delivery schedule or date, or (ii) of compliance with any other order requirements by the Seller, or (iii) of any other rights or remedies provided to Buyer by law under this order.

Unless otherwise provided in this order or approved by the Buyer, delivery shall not be made more than forty-five days prior to the delivery dates specified herein. Buyer reserves the right to obtain consideration for approving such early delivery in addition to the impact to "Warranty" described in Article 9. Buyer may return early deliveries at Seller's risk and expense. Repair parts may ship by the purchase order delivery date or sooner; the forty-five day restriction does not apply to repair part procurements.

Should the Buyer determine that an extension in the purchase order delivery dates set forth herein is advisable; the extension will be accomplished under a bilateral amendment at no increase in purchase order price.

4. TAXES

Unless otherwise expressly stated on the face of this order, the price stated herein includes all applicable Federal, state and local taxes in effect on the date of this order but does not include any state or local sales, use or any other tax directly applicable to the completed supplies or services covered by this order from which Seller or this transaction is exempt.

5. PAYMENTS

- a. Except as otherwise provided in this order (e.g., progress payments), no payment by Buyer shall be due until thirty days after (1) receipt of an acceptable invoice and appropriate evidence that Seller has met all requirements of the order, or (2) receipt of the supplies and/or services at FOB point, whichever last occurs. Buyer may at its discretion make payments for partial delivery of supplies or services if so requested by Seller. No payment made by Buyer shall be deemed to indicate final acceptance and any payment made prior to final acceptance shall be returned by Seller at the request of Buyer if the supplies or services to which the payment relates are rejected.
- b. Unless otherwise provided, if this order provides a discount for prompt payment, the discount period shall be calculated from the date an acceptable invoice and supporting evidence that all order requirements have been met is received or the date of receipt at FOB point of the supplies and/or services, whichever last occurs.
- c. If provided for in this order, Progress Payments for Large Business, Small Business, and Small Disadvantaged Business shall be subject to the terms contained in FAR 52.232-16 except that: wherever stated, the word "Contractor" shall mean "Seller", the word "Contract" shall mean "Purchase Order" and the words "Government", "Contracting Officer" and "Contracting Agency" shall mean "Buyer" [except that "Government" shall retain its meaning in paragraphs (d)(1), (d)(2)(ii), (d)(3), (d)(5) first reference, (d)(6)(i) and (ii), (d)(7), (e) except in the last sentence, (g) in the last sentence, (h) when referring to property delivery, (j)(3)(ii) and (v), (j)(5) except the last reference, and (j)(6)].
- d. With respect to Progress Payment rates:
 - For Large Businesses – as stated in FAR 52.232-16
 - For Small Businesses – as stated in DFARS 252.232-7004(a)
 - For Small Disadvantaged Businesses – as stated in DFARS 252.232-7004(b)
- e. Eligibility for progress payments will be determined in accordance with FAR 32.104(d).
- f. For orders where progress payments are applicable, the following applies: Upon Seller submittal of the data required per FAR 32.503-9 and -10, that data will be evaluated per FAR 32.503-9 and -10 and the liquidation rate adjusted accordingly.
- g. At Buyer's request and as applicable, Seller agrees to execute financing statements (UGC Form 1 or equivalent) and any related documents to reflect the Government title to Property as provided in FAR 52.232-16 (Progress Payments) or FAR 52.232-32 (Performance Based Payments). Seller agrees to include the substance of this provision in any subtier order which will receive such payments reimbursed by Buyer or work in progress from Seller in which the Government has title. Notwithstanding the foregoing, Buyer's failure to request and file financing statements shall in no way reduce or lessen the Government's interest in property as defined in FAR 52.232-16 or FAR 52.232-32, as applicable.
- h. Seller and each assignee under an assignment in effect at the time of final payment agree as a condition precedent to final payment, that the Buyer and the Government, their respective officers, agents and employees are released from all liabilities, obligations and claims arising under or by virtue of this order.

- i. Seller agrees that prior to the satisfaction of the technical data requirements as prescribed in DFARS 252.227-7030, Buyer will withhold an amount per Article 10(i). Subsequent to the satisfaction of this DFARS article, Seller further agrees that the final invoice shall constitute not less than ten percent (10%) of the total order price. Payment up to 100% of purchase order value is permitted at time of shipment with regard to purchase orders procuring only repair parts providing all certifications, drawings, and other required deliverable items have been received by the Buyer.

Notwithstanding the above, if Performance Based Payments are provided for in this order, they shall be in accordance with FAR 52.232-32 with the following exceptions:

Wherever stated, the word "Contractor" shall mean "Seller", the word "Contract" shall mean "Purchase Order", and the words "Government", "Contracting Officer" and "Contracting Agency" shall mean "Buyer" [except that "Government" shall retain its meaning in paragraphs (c) (3), (f), (g), and (m)(3)].

Paragraph (c) (2) regarding the provisions of the Prompt Payment clause is deleted.

In Paragraph (h) regarding records and controls, references to "Contracting Officer" shall be read as "Contracting Officer or Buyer".

In Paragraph (i), regarding reports and Government access, references to "Contracting Officer" and "Government" shall be read as "Contracting Officer / Government or Buyer".

6. CHANGES

- a. Buyer may at any time, by a written Change Order issued by Buyer and without notice to the sureties, make changes, within the general scope of this order, to (i) the amount of Government Furnished Property; (ii) the quantities or items of any repair part lists; and (iii) any one or more of the following:
 1. If the purchase is in whole or in part for **supplies**: (i) drawings, designs and/or specifications when the supplies to be furnished are to be specifically manufactured for Buyer in accordance with the drawings, designs and/or specifications; (ii) method of shipment or packing and (iii) place of delivery, inspection and/or acceptance.
 2. If the purchase order is in whole or in part for **research and development**: (i) drawings, designs or specifications; (ii) method of shipment or packing and (iii) place of delivery, inspection and/or acceptance.
 3. If the purchase is in whole or in part for any other **services**: (i) description of services to be performed; (ii) time of performance (i.e., hours of the day, days of the week, etc.) and (iii) place of performance of the services.
- b. If any such Change Order causes an increase or decrease in the cost of, or the time required for, performance of any part of the work under this order, or otherwise affects any other provision of this order, whether changed or not changed by any such written notice of change, an equitable adjustment shall be negotiated in the order price or delivery requirements or both, and in such other provisions of the order as may be affected. Such adjustment shall be accomplished by a written amendment to this order signed by Buyer. No changes to this order are authorized unless made by a Buyer representative designated by name herein and substantiated by a formal written amendment/change order. Changes made by Seller, unless authorized by a formal written amendment/change order, shall be made at the sole risk of Seller, there being no financial recourse against Buyer.
- c. Any request by Seller for equitable adjustment under this article must be asserted within thirty days or such earlier date as may be specified by Buyer from the date of receipt by Seller of the

notification of Change Orders; provided, however, that Buyer, if it decides that the facts justify such action, may receive and act upon any such Request for Equitable Adjustment (RFEA) asserted at any time prior to final payment under this order.

- d. Where the cost of property made obsolete or excess as a result of change is included in Seller's RFEA, Buyer reserves the right to prescribe the manner of disposition of such property.
- e. Nothing in this article shall excuse Seller from proceeding with the order as changed.
- f. Buyer will not pay for additional work or extras unless such work or extras have been ordered in writing and the price therefore agreed upon. Changes made by Seller without an authorized Change Order or Amendment shall be made at the sole risk of Seller, there being no financial recourse against Buyer.
- g. Seller shall not substitute other material or accessories for those specified in the order without the written consent of Buyer.
- h. Any purchase order RFEA, including a request for equitable adjustment to purchase order terms, a request for relief under Public Law 85-804, or other similar request exceeding \$150,000 shall bear, at the time of submission, the following certificate given by an individual who has knowledge of the basis of the request, knowledge of the accuracy and completeness of the supporting data, and knowledge of the request for equitable adjustment request:

I certify that the request for equitable adjustment is made in good faith, that the supporting data are accurate and complete to the best of my knowledge and belief; that the amount requested accurately reflects the purchase order adjustment for which the Seller believes the Buyer is liable; and that I am duly authorized to certify the request for equitable adjustment on behalf of the Seller.

Official's Name

Title

- i. The certification in Paragraph h. requires full disclosure of all relevant facts, including cost or pricing data.

J. The certification requirement in Paragraph h. does not apply to: (i) Requests for routine order payments, for example, those for payment for accepted supplies and services, routine vouchers under cost reimbursement type purchase orders, progress payment invoices, and performance based payment invoices, and (ii) Final adjustments under incentive provisions of purchase orders.

7. LIENS

Seller agrees to deliver to Buyer the articles covered by this order free and clear of all liens, claims, and encumbrances.

8. INSPECTION

- a. All work (which term throughout this article includes without limitation raw materials, procedures and processes, components, intermediate assemblies and end products) that is performed in accordance with order requirements of this purchase order shall be subject to inspection and test by Buyer and the Government, to the extent practicable at all times and places including the period of manufacture, and in any event prior to acceptance. Seller is responsible for, and shall upon Buyer's request furnish evidence of, compliance with all requirements of the order; and

inspection and test by Buyer or the Government of any work, or approval of designs, drawings, samples, test results, procedures, processes or schedules by Buyer or the Government does not relieve Seller from any responsibility to meet the order requirements.

- b. In case any work is defective in material or workmanship or otherwise not in conformity with the requirements of this order, Buyer shall have the right either to reject it (with or without instructions as to its disposition) or to require correction. Work which has been rejected or required to be corrected shall be removed, or, if permitted or required by Buyer, corrected in place by and at the expense of Seller promptly after notice, and shall not thereafter be tendered for acceptance unless the former rejection or requirement of correction is disclosed. If Seller fails promptly to remove such work which is required to be removed, or promptly to replace or correct such work as specified by Buyer, Buyer either (1) may, by purchase order or otherwise replace or correct such work and charge to Seller the cost occasioned Buyer thereby, or (2) may terminate this order for default as provided in the article of this order entitled "Default". Unless Seller corrects or replaces such work within the delivery schedule, Buyer may require the delivery of such work at a reduction in price which is equitable under the circumstances.
- c. If any inspection or test is made by Buyer and/or the Government on the premises of Seller or a subtier subcontractor, Seller without additional charge shall provide a safe place to work and reasonable facilities and assistance for the convenience of Buyer and/or the Government's representatives in the performance of their duties. If Buyer and/or Government inspection or test is made at a point other than the premises of Seller or a subtier subcontractor, it shall be at the expense of Buyer except as otherwise provided in this order; provided that, in case of rejection, Buyer shall not be liable for any reduction in value of samples used in connection with such inspection or test.
- d. All inspections and tests by Buyer and/or the Government shall be performed in such a manner as not to unduly delay the work. Buyer reserves the right to charge to Seller any additional costs of Buyer's and/or the Government's inspection and test when work is not ready at the time such inspection and test is requested by Seller or when re-inspection or retest is necessitated by prior rejection.
- e. Acceptance or rejection of the work shall be made as promptly as practicable after delivery, except as otherwise provided in this order; but failure to inspect and accept or reject work shall neither relieve Seller from responsibility for such work as is not in accordance with the order requirements nor impose liability upon Buyer therefore. Except as otherwise provided in this order, acceptance shall be conclusive except as regards latent defects, fraud, or such gross mistakes as amount to fraud.
- f. Inspection and test requirements specifically required by this order are for the convenience of Buyer and/or the Government and do not relieve Seller of its responsibility to provide a high-quality product which meets order requirements. If during the period specified in the article of this order entitled "Warranty" any failure to meet order requirements is uncovered (including any uncovered by Buyer's and/or the Government's own tests), Seller shall be responsible in accordance with the provisions of said warranty article for correcting the condition; this requirement applies regardless of the extent of testing or inspection specifically required by this order.
- g. Seller shall provide and maintain, and require its subtier subcontractors to provide and maintain, an inspection and quality control system acceptable to Buyer and the Government covering the work hereunder. Records of all inspection and quality control work by Seller and its subtier subcontractors shall be kept complete and available to Buyer and/or the Government during performance of this order and for such longer period as may be specified elsewhere in this order.
- h. In the event this order is, in full or in part, for services, then (i) paragraphs a through d above are deleted solely with regard to the services portion of this order and replaced with FAR 52.246-4, Inspection of Services--Fixed Price and (ii) paragraphs e through g above remain fully applicable except that references to "items" or "components" are replaced with "services".

9. WARRANTY

- a. In addition to its obligations under other provisions of this order (including those concerning inspection and acceptance), Seller warrants material and workmanship, and that the items furnished under this order will be manufactured in accordance with the order requirements, and, if Seller is responsible for design, will meet all design requirements set forth in this order. The term of this warranty is for a period of three years after delivery or for a period of one year after the date first placed in use, whichever first expires (or in the case of standard commercial articles, one year after delivery). However, in the case of a Buyer approved delivery earlier by more than 45 days with respect to the contract delivery date specified in this purchase order, the warranty period shall commence on the contract delivery date.
- b. Buyer shall give Seller notice of any defect or lack of conformity with order requirements within a reasonable time after discovery. Seller shall promptly thereafter (without additional cost to the Buyer) either correct or replace such defective or nonconforming item or component thereof, and correct or replace all appropriate drawings, procedures, technical manuals, design reports and substantiating data. If Buyer does not require correction or replacement of the defective or non-conforming item or component thereof, Seller, within a reasonable time after the notice shall repay such portions of the order price of the item as is equitable under the circumstances. If Seller fails to proceed with reasonable promptness to make any correction or replacement in accordance with the provisions of this article, Buyer reserves the right to cause such corrections or replacement to be made and Seller agrees to reimburse Buyer for the costs incurred thereby. Unless otherwise agreed, correction or replacement of defective or non-conforming items or components thereof shall be performed subject to and in accordance with the provisions of this order. Buyer has the right to require Seller to correct in place any defective or non-conforming item or component thereof delivered under this order or to return such item or component to Seller for correction in which case Seller shall be responsible for packing and packaging charges and shipping cost (to and from Seller's plant) for the item or component returned for correction. In exercising this right, Buyer will notify Seller which alternative it proposes to take. In this connection, Buyer will be reasonable in making its election in terms of its and the Government's time requirements, the relative economies of each course and the particular circumstances at the time of election, giving due regard to any reasonable requests of Seller. In the event that Seller is required to correct in place, Seller shall not be responsible for removal or reinstallation of the items or structural parts not furnished by Seller under this order. Seller shall not be required to incur costs for such correction in place in excess of an amount equal to the total price of this order. In the event that any defective item is returned by Buyer to Seller's plant for correction, Buyer shall be responsible for removing the defective item from the system and Seller shall, upon completion of correction, make delivery as directed by Buyer, but shall not be obligated to incur costs in excess of the total price of this order, plus shipping (to and from Seller's plant) and packing and packaging charges, nor shall Seller be responsible for any costs of reinstallation. However, Seller shall not be responsible for shipping costs outside the continental limits of the United States.
- c. The warranty with respect to a corrected or replaced item, items or components thereof, shall be subject to the same terms as the warranty provided for in paragraph a. The original warranty for other than the corrected or replaced item, items, or components thereof shall continue until the expiration of the period prescribed in paragraph a. plus a period equal to the time elapsed between the discovery of the defect and correction or replacement of the defective item, items or components thereof.
- d. Defective or non-conforming items or components thereof which Seller is required to correct or replace in accordance with the provisions of this article may be contaminated with radioactivity. Should the level of radioactivity of items or components thereof be sufficient to create by itself a "radiation area" as defined in 10 C.F.R. Sec. 20.1003 in effect on the date of this order, Seller shall nevertheless promptly correct or replace such items or components as directed by Buyer. In the event Seller's costs of correction or replacement are increased solely by reason of the level of radioactivity of any such items or components thereof which exceeds the level specified in the definition of "radiation area", an equitable adjustment shall be made, and such adjustments shall

be agreed to in writing. If Buyer, with respect to any such items or components thereof having a level of radioactivity sufficient to create by itself a "radiation area", elects, as provided in paragraph b above, to require payment of an equitable portion of the order price, the parties shall not consider the estimated additional costs of correcting such item or component incurred solely by reason of the level of radioactivity specified in the definition of "radiation area".

- e. Approval of designs, drawings, samples, test results, procedures, processes or schedules by Buyer or the Government shall not in any way limit or diminish Seller's warranties hereunder.
- f. Computer Hardware, Software and Firmware. In addition to, and without limitation upon, the warranty provided under the other provisions of this Article, the following provision entitled "Virus Warranty" applies to all orders and the following provision entitled Year 2000 Warranty applies to all orders for (i) customized (i.e., developed directly for Buyer) software, hardware and/or firmware and (ii) software, hardware and firmware which is incorporated within items furnished under this order.

1. Virus Warranty

Software and hardware provided by the Seller shall not contain known computer viruses or other malicious software in accordance with the following:

Viruses are program code that replicate themselves on execution and create undesirable effects, generally only applicable to personal computer systems. Malicious software is program code intentionally added to programs or media to produce undesirable results. An unintentional software error is not malicious code and will be resolved in accordance with other applicable purchase order requirements.

The Seller shall take anti-virus and anti-malicious software precautions including installation and proper use of anti-virus software where applicable and implementation of workplace awareness to avoid conveying known computer viruses or other malicious software to the Buyer. Specifically, all computer files, disks, memories, or other media produced by or utilized on operating systems supported by anti-virus utilities and provided by the Seller to the Buyer (other than third party supplied software in its original, unopened packaging materials) shall be checked by the Seller prior to delivery to the Buyer to detect and remove any known computer virus or other known malicious software. The Seller virus check shall be performed using the current signature file and software revision for the Seller selected anti-virus software. The Seller shall include a statement verifying that the check has been made prior to delivery to the Buyer. The Seller is not required to perform a virus check on media generated by operating systems not supported by anti-virus utilities.

The Seller shall replace or correct media found to have virus/malicious software during the Seller's check or later found by the Buyer during initial use (including receipt inspection virus check when applicable). The Buyer will provide written notification regarding any virus/malicious software contamination to the Seller.

2. Year 2000 Warranty

Seller warrants that each hardware, software and firmware product manufactured, developed, or integrated by Seller and delivered under this purchase order (if this order is for supplies) and/or maintained under this purchase order (if this order is for maintenance services) shall be able to process date data from, into and between the years beginning with 19 (i.e., 1900-1999) and the years beginning with 20 (i.e., 2000-2099). This includes, but is not limited to, calculating, comparing and sequencing when used in accordance with Seller's product documentation. If the purchase order requires that specific listed products shall perform as a system in accordance with the foregoing warranty, then that warranty shall apply to those listed products as a system. Repair or replacement of non-compliant products shall be with products that are Year 2000 compliant. Nothing in this warranty shall be construed to limit the rights or remedies the Buyer may otherwise have under this purchase order with respect to defects other than Year 2000 performance.

- g. In the event this order is, in full or in part, for services, then (i) paragraphs a and b above are deleted solely with regard to the services portion of this order and replaced with FAR 52.246-20, Warranty of Services (ii) paragraphs c and e remain fully applicable except that references to "items" or "components" are replaced with "services" and (iii) those portions of paragraphs d and f that qualify as services remain applicable.

10. RIGHTS IN TECHNICAL DATA AND COMPUTER SOFTWARE

The following clauses and provisions of the FAR and DFARS, as indicated, in effect as of October 7, 2010, are incorporated by reference, with the same force and effect as if the clause were provided in full text. The incorporated provisions may contain prefaces providing direction on implementation; in such instances, the clause alone applies and the implementation direction remains inapplicable. The definitions and meanings at Article 1 to these terms and conditions, to include meaning b(3) and its note, shall specifically apply to the following clauses and provisions, as modified:

- a. DFARS 252.227-7013, Rights in Technical Data - Noncommercial Items is changed as follows:

1. Paragraphs (f) (2) through (f) (5) are deleted and replaced as follows:

Except to the extent explicitly set forth in this order, the only authorized markings will be in accordance with Attachment 1, paragraph 1.

2. Paragraph (h) is deleted and replaced as follows:

(h) Removal of Unauthorized Markings

1. Notwithstanding any provision of this order concerning inspection and acceptance, Buyer and the Government may correct, cancel, or ignore any marking not authorized by the terms of this order on any computer software/computer software documentation furnished hereunder in accordance with the clause of this order entitled "Validation of Asserted Restrictions-Computer Software".
2. Correction of nonconforming markings is not subject to this clause entitled "Validation of Asserted Restrictions-Computer Software". The Buyer and/or the Government may, at the Seller's expense, correct any nonconforming markings if Buyer or the Government notifies the Seller and the Seller fails to correct the nonconforming markings within sixty days.
3. Paragraphs (I) and (m) are incorporated here the same as added paragraphs (I) and (m) to DFARS 252.227-7013 in Article 10.a. above, except that all paragraphs (I) and (m) references to "technical data" are deleted and replaced with "computer software and computer software documentation".

(l) Post Award Negotiation

If, after exhausting all reasonable efforts, the parties fail to agree on the apportionment of the rights in technical data furnished under this order by the date established in the order for agreement, or within any extension established by Buyer or the Government, then Buyer or the Government may establish the respective data rights of the parties. Challenges shall be in accordance with this Article 10 (j) DFARS 252.227-7037. However, nothing shall excuse the Seller from proceeding with the order pending resolution of any such challenge.

(m) Technical Data Pertaining to Nuclear Propulsion Plant Systems

Pursuant to subparagraph (b)(1) above, it is agreed that all technical data pertaining to nuclear propulsion plant systems have been, or will be developed exclusively with Government funds, and that all technical data generated under this order, and all technical data required to meet order requirements shall be provided to the Government with unlimited rights.

It is further agreed that promptly after delivery of all purchase order deliverables, or after any termination of all work under this purchase order, the Seller shall submit a letter report to the Buyer listing and providing a brief description of all items of technical data, pertaining to the deliverables developed or prepared under this purchase order. The Seller shall furnish in the Seller's format, and at the cost of reproduction, with unlimited rights, copies of the items of technical data so reported or which should have been reported, as the Buyer may require in writing from time to time. However, nothing in this requirement shall require the Seller to retain any item of such technical data beyond the period provided for in this purchase order, including the specifications, and other documents incorporated by reference, applicable to the item or type of technical data involved.

b. DFARS 252.227-7014, Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation is changed as follows:

1. Paragraphs (f) (2) through (f) (5) are deleted and replaced as follows:

Except to the extent explicitly set forth in this order, the only authorized markings **will** be in accordance with Attachment 1, paragraph 2.

2. Paragraph (h) is deleted and replaced as follows:

(h) Removal of Unauthorized Markings

1. Notwithstanding any provision of this order concerning inspection and acceptance, Buyer and the Government may correct, cancel, or ignore any marking not authorized by the terms of this order on any computer software/computer software documentation furnished hereunder in accordance with the clause of this order entitled "Validation of Asserted Restrictions-Computer Software".
2. Correction of nonconforming markings is not subject to this clause entitled "Validation of Asserted Restrictions-Computer Software". The Buyer and/or the Government may, at the Seller's expense, correct any nonconforming markings if Buyer or the Government notifies the Seller and the Seller fails to correct the nonconforming markings within sixty days.
3. Paragraphs (I) and (m) are incorporated here the same as added paragraphs (I) and (m) to DFARS 252.227-7013 in Article 10.a. above, except that all paragraphs (I) and (m) references to "technical data" are deleted and replaced with "computer software and computer software documentation".

c. DFARS 252.227-7015, Technical Data - Commercial Items

d. DFARS 252.227-7016, Rights in Bid or Proposal Information

e. DFARS 252.227-7019, Validation of Asserted Restrictions - Computer Software

f. DFARS 252.227-7025, Limitation on the Use or Disclosure of Government-Furnished Information Marked with Restrictive Legends

9. DFARS 252.227-7027, Deferred Ordering of Technical Data or Computer Software

h. DFARS 252.227-7028, Technical Data or Computer Software Previously Delivered to the Government

- i. DFARS 252.227-7030, Technical Data - Withholding of Payment, modified as follows: Subparagraph (a) at the end of the first sentence, delete "or amount unless a lesser withholding is specified in the contract" and insert "or \$100,000.00, whichever is less".

j. DFARS 252.227-7037, Validation of Restrictive Markings on Technical Data

11. PATENT RIGHTS - OWNERSHIP BY THE GOVERNMENT

[This Article applies only to (i) purchase orders or amendments thereto, regardless of tier, placed with businesses other than small business firms and/or nonprofit organizations (ii) for the performance of experimental, developmental, or research work (includes "design" and "design and furnish" scopes of work). With regard to this latter condition, if any part of this order or amendment is for the performance of experimental, developmental or research work then this clause applies.]

The Government shall retain the Patent Rights set forth in FAR 52.227-13, Patent Rights -- Ownership by the Government, however, the meanings at Article 1, Definitions and Meanings to these terms and conditions, to include meaning b(3) and its note, shall specifically apply.

12. PATENT RIGHTS - SMALL BUSINESS FIRM OR NONPROFIT ORGANIZATION

[This Article applies only to (i) purchase orders or amendments thereto, regardless of tier, placed with small business firms and/or nonprofit organizations (ii) for the performance of experimental, developmental, or research work (includes "design" and "design and furnish" scopes of work). With regard to this latter condition, if any part of this order or amendment is for the performance of experimental, developmental or research work then this clause applies.]

Patent rights shall be retained under this order as set forth in FAR 52.227-11, Patent Rights -- Ownership by the Contractor, however, the meanings at Article 1, Definitions and Meanings to these terms and conditions, to include meaning b(3) and its note, shall specifically apply.

13. FURNISHED INFORMATION

Plans, drawings, specifications, designs, photographs and any other engineering and manufacturing information furnished by Buyer shall remain Buyer or Government property, as the case may be, shall be reproduced only as authorized in writing by Buyer, shall be used only for performance of the work under this order, and shall be returned to Buyer upon request, which request may be made during such performance or at termination or completion of the order, and Seller shall thereafter make no further use of any information derived there from without prior written consent of Buyer or the Government.

14. CLASSIFIED INFORMATION AND NAVAL NUCLEAR PROPULSION INFORMATION (NNPI)

Seller shall comply with the requirements applicable to the receipt, handling, control, dissemination and disposal of classified information and NNPI, as those requirements are established elsewhere within this purchase order. "Information" means data, material, equipment and any and all other information of whatever type, kind or description. [For the definition of NNPI, refer to the NN-801. Control and Protection of Unclassified Naval Nuclear Propulsion Information or the DD-254, Facility Wide Contract Security Classification Specification and/or DoE-F470.1, Contract Security Classification Specification for classified orders].

15. TITLE

Title to all materials and supplies purchased under this order shall vest in the Government whenever title passes from Seller.

16. APPLICABLE LAWS / COMPLIANCE WITH LAW / INDEMNIFICATION

- a. Any provision of this order, including the federal procurement regulations in FAR, DFARS, and the Cost Accounting Standards (CAS), shall be construed and interpreted according to the federal contract law of government contracts as enunciated and applied by federal judicial bodies, Boards of Contract Appeals and quasi-judicial agencies of the Federal Government. Where that body of law does not apply, the laws of the Commonwealth of Pennsylvania shall apply. Should issues arise requiring litigation, Seller agrees that the forum/venue will be the appropriate jurisdiction in Pennsylvania as selected by the Buyer.
- b. Seller shall comply with all Federal, state and local laws, regulations, rules, ordinances, and other requirements applicable to the performance of the work under this order (including, but not limited to, workman's/worker's compensation or occupational disease, or withholding and payment of social security and federal income taxes, and to obtain similar agreements from all its subcontractors.
- c. Seller agrees to defend, hold harmless and indemnify the Buyer and its officers, directors, employees, representatives, subcontractors and/or agents, their successors and assigns, and the Government, against any and all losses, claims, damages and/or allegations, including all expenses relating thereto, arising out of or relating to Seller or its subcontractor violations of any Federal, state or local laws, regulations, rules, ordinances, or other requirements (including without limitation permits and license obligations), including but not limited to Section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. 423), and all regulations issued thereunder.

17. PROPRIETARY INFORMATION

Any knowledge or information which Seller shall have disclosed or may hereafter disclose to Buyer incident to the placing and filling of this order shall not, unless otherwise specifically agreed upon in writing by Buyer, be deemed to be Seller proprietary information, and accordingly shall be acquired free from any restrictions (other than restrictions which may result from a claim for patent infringement).

18. ASSIGNMENT

- a. Neither this order nor any interest therein nor claim there under shall be assigned or transferred by Seller, except as expressly authorized in writing by Buyer. In the event that Buyer consents to the assignment or transfer, Buyer reserves the right to require an executed novation agreement per FAR Part 42.
- b. In no event shall copies of this order or any plans, specifications, or other similar documents relating to work under this order, if marked "**Top Secret**", "**Secret**", "**Confidential**" or "**NOFORA1**", be furnished to any assignee of any claim arising under this order or to any other person not entitled to receive the same. However, a copy of any part or all of this order so marked may be furnished, or any information contained therein may be disclosed to such assignee, upon the prior written authorization of Buyer.
- c. This order or any and all rights there under may be assigned by Buyer to the Government or any designee of the Government, provided that written notice thereof is given to Seller.

19. SET-OFF

Buyer shall be entitled at all times to set-off against any amount payable by Buyer in connection with this order, any amount owed by Seller to Buyer arising from transactions relating to Buyer's orders.

20. PERMITS

Except as otherwise directed by Buyer, Seller shall procure and fully comply with all necessary permits or licenses required in the performance of work under this order.

21. SPECIAL MATERIALS

Special measures as delineated in the order shall be taken by Seller for the protection of and accounting for any source, special nuclear and special reactor materials supplied to it, in accordance with regulations and requirements of the cognizant Government Agency and Buyer.

22. SUSPENSION OF WORK FOR THE CONVENIENCE OF THE BUYER

Buyer may by written notice, direct Seller to suspend all or any part of the work for such period of time as may be determined by Buyer to be necessary or desirable for its convenience. If such suspension unreasonably delays the progress of the work and causes additional expense or loss to Seller in the performance of the work, not due to the fault or negligence of Seller, an equitable adjustment in the price and the time for performance shall be made by agreement of the parties, and the order shall be modified in writing accordingly; provided, however, that any request by Seller for an adjustment hereunder must be asserted within thirty days or a time period as mutually agreed upon by the Buyer and Seller in writing from the date of a start order for resumption of work. Refer to Article 6, Changes, paragraph (h) for the requirements of certifying a Request for Equitable Adjustment.

23. WORK INDEMNIFICATIONS

- a. As to the work to be done, or services to be performed by Seller on Buyer premises, Government premises, or the premises of other Buyer subcontractors, Seller assumes entire responsibility and liability for losses, expenses, damages, demands, and claims in connection with or arising out of any injury or alleged injury (including death) or damage or alleged damage to property, sustained or alleged to have been sustained in connection with or to have arisen out of Seller's negligence in performance of the work.
- b. Seller will indemnify and save harmless the Government and Buyer from and against any and all claims, demands, actions, causes of action, suits, damages, expenses (including attorney's fees) and liabilities whatsoever resulting from or arising in any manner on account of or by reason of any injury to or death of any person or any damage to or loss of property which may occur or be alleged to have occurred as a result of or in connection with the Seller's negligence in performance of this order.

Nothing in the foregoing shall be construed to require Seller to indemnify and save harmless the Government and the Buyer from any liability arising out of or resulting from a nuclear incident.

24. USE OF GOVERNMENT PROPERTY, SPECIAL TOOLING, OR SPECIAL TEST EQUIPMENT

Use of Government property, special tooling, or special test equipment on this order by Seller is not authorized; and Seller agrees to execute this order without making use on any basis of Government-owned land, buildings, machine tools, equipment, special tooling, special test equipment, or other facilities without the prior approval of the Buyer.

25. PREPRODUCTION COSTS

Seller agrees that all preproduction and start up costs and other non-recurring charges that Seller is absorbing under this order shall not be charged to Buyer, the Government or any other Naval Reactors prime contractor in any future procurement.

26. CLAUSES INCORPORATED BY REFERENCE

The following clauses and provisions of the FAR and DFARS, as indicated, in effect as of October 7, 2010, are incorporated by reference with the same force and effect as if the clauses were provided in full text. Except as noted for implementation of Alternate Ito FAR 52.245-1, Government Property, the incorporated provisions may contain prefaces providing direction on implementation; in such instances, the clause alone applies and the implementation direction remains inapplicable. Except as otherwise provided at the specific referenced clause, (i) the clauses apply to all fixed type and cost type orders, and (ii) the meanings at Article 1, Definitions and Meanings to these terms and conditions, to include meaning b(3) and its note, shall specifically apply. **All reference to Disputes, the Contracts Disputes Act or the Disputes Clause, contained in any referenced clause is hereby deleted.**

a. INCORPORATED IN PURCHASE ORDERS AT ALL DOLLAR LEVELS

- FAR 52.202-1, Definitions. "Government" as used therein shall retain its original meaning
- FAR 52.203-3, Gratuities
- FAR 52.204-2, Security Requirements. Less paragraph (c) which is deleted
- FAR 52.204-9 Personal Identity Verification of Contractor Personnel
- FAR 52.204-10 Reporting Executive Compensation and First-Tier Subcontract Awards
- FAR 52.209-6 Protecting the Government's Interest when Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (Dec 2010)
- FAR 52.211-5, Material Requirements
- FAR 52.211-15, Defense Priority and Allocation Requirements
- FAR 52.214-26 Audit and Records – Sealed Bidding (March 2009)
- FAR 52.214-27 Price Reduction for Defective Cost or Pricing Data Modifications – Sealed Bidding (Oct 1997)
- FAR 52.214-28 Subcontract Cost or Pricing Data – Modifications- Sealed Bidding
- FAR 52.215-2 Audit and Records – Negotiations (Oct 2010)
- FAR 52.215-10 Price Reduction for Defective Certified Cost or Pricing Data (Oct 2010)
- FAR 52.215-11 Price Reduction for Defective Cost or Pricing Data – Modifications (Oct 1997)
- FAR 52.215-12 Subcontractor Certified Cost or Pricing Data (Oct 2010)
- FAR 52.215-13 Subcontractor Cost or Pricing Data – Modifications (Oct 1997)
- FAR 52.215-14 Integrity of Unit Prices (Oct 2010)

TAC-2011 **Revision Original (dated March 2011)**

- FAR 52.215-18 Reversion of Adjustment of Plans for Postretirement Benefits (PRB) Other than Pensions (Jul 2005)
- FAR 52.215-19 Notification of Ownership Changes
- FAR 52.215-22 Limitation of Pass-Through Charges – Identification of Subcontract Effort
- FAR 52.215-23 Limitation of Pass-Through Charges (Oct 2009)
- FAR 52.216-7 Allowable Cost and Payment (Dec 2002)
- FAR 52.216-8 Fixed Fee (Mar 1997)
- FAR 52.216-24 Limitation of Government Liability
- FAR 52.216-25 & Alt. I Contract Definitization (Including Alternate I) (Oct 1997)
- FAR 52.216-26 Payments of Allowable Costs Before Definitization
- FAR 52.219-8 Utilization of Small Business Concerns (Jan 2011)
- FAR 52.219-9 Small Business Subcontracting Plan
- FAR 52.219-16 Liquidated Damages – Subcontracting Plan (Jan 1999)
- FAR 52.222-1 Notice to the Government of Labor Disputes
- FAR 52.222-4 Contract Work Hours and Safety Standards Act – Overtime Compensation (Jul 2005)
- FAR 52.222-19, Child Labor – Cooperation with Authorities and Remedies
- FAR 52.222-20 Walsh- Healey Public Contracts Act (Oct 2010)
- FAR 52.222-21, Prohibition of Segregated Facilities
- FAR 52.222-26, Equal Opportunity
- FAR 52.222-35 Equal Opportunity for Veterans (Sep 2010)
- FAR 52.222-36 Affirmative Action for Workers with Disabilities
- FAR 52.222-37 Employment Reports on Veterans (Sep 2010)
- FAR 52.222-50, Combating Trafficking in Persons
- FAR 52.223-3, Hazardous Material Identification and Material Safety Data
- FAR 52.223-7, Notice of Radioactive Materials
- FAR 52.223-11, Ozone-Depleting Substances
- FAR 52.223-14 Toxic Chemical Release Reporting (Aug 2003)
- FAR 52.223-18 Contractor Policy to Ban Text Messaging While Driving (Sep 2010)
- FAR 52.225-1 Buy American Act- Supplies

TAC-2011 **Revision Original (dated March 2011)**

- FAR 52.225-3 Buy American Act – Free Trade Agreements – Israeli Trade Act
- FAR 52.225-5 Trade Agreements (Aug 2009)
- FAR 52.225-7 Waiver of Buy American Act for Civil Aircraft and Related Articles (Feb 2000)
- FAR 52.225-8 Duty-Free Entry
- FAR 52.225-13, Restrictions on Certain Foreign Purchases
- FAR 52.227-1 Authorization and Consent (Dec 2007)
- FAR 52.227-2 Notice and Assistance Regarding Patent and Copyright Infringement
- FAR 52.227-3, Patent Indemnity
- FAR 52.227-9, Refund of Royalties (applies if the amount of royalties reported during negotiations exceeds \$250)
- FAR 52.227-10, Filing of Patent Applications - Classified Subject Matter
- FAR 52.227-14 Rights in Data- General (Dec 2007)
- FAR 52.229-3 Federal, State, and Local Taxes (Apr 2003)
- FAR 52.230-2 Cost Accounting Standards (Oct 2008)
- FAR 52-230-3 Disclosure and Consistency of Cost Accounting Practices (Oct 2008)
- FAR 52.230-6 Administration of Cost Accounting Standards (Jun 2010)
- FAR 52.232-16 Progress Payments
- FAR 52.232-17 Interest
- FAR 52.232-20 Limitation of Costs (Apr 1984)
- FAR 52.232-22 Limitation of Funds (Apr 1984)

- FAR 52.234-1, Industrial Resources Developed Under Defense Production Act, Title III
- FAR 52.242-1 Notice of Intent to Disallow Costs (Apr 1984)
- FAR 52.242-15 Stop Work Order (Aug 1989)
- FAR 52.242-17 Government Delay of Work (Apr 1984)
- FAR 52.243-1 Changes-Fixed Price (Aug 1987)
- FAR 52.244-5 Competition in Subcontracting (Dec 1996)
- FAR 52.244-6, Subcontracts For Commercial Items
- FAR 52.245-1, Government Property (with Alternate I when the conditions stated in FAR 45.107(a)(2) with reference to FAR 45.104(a) are met.)
- FAR 52.245-9, Use and Charges
- FAR 52.246-2 Inspection of Supplies – Fixed Price (Aug 1996)
- FAR 52.246-16 Responsibility for Supplies
- FAR 52.246-23, Limitation of Liability
- FAR 52.246-25, Limitation of Liability – Services
- FAR 52.247-63, Preference for U.S. Flag Air Carriers
- FAR 52.247-64 Preference for Privately Owned U.S. Flag Commercial Vessels
- FAR 52.248-1 Value Engineering (Oct 2010)
- FAR 52.248-2 Termination for Convenience of the Government (May 2004)
- FAR 52.249-1 Termination for Convenience of the Government (Fixed Price) (Short Form) (Apr 1984)
- FAR 52.249-8, Default (Fixed Price Supply and Service)
- FAR 52.253-1, Computer Generated Forms
- DFARS 252.203-7000, Requirements Relating to Compensation of Former DOD Officials
- DFARS 252.203-7001 Prohibition on Persons Convicted Fraud of Other Defense-Contract-Related Felonies
- DFARS 252.203-7002 Requirement to Inform Employees of Whistleblower
- DFARS 252.204-7000, Disclosure of Information
- DFARS 252.204-7008 Export-Controlled Items (Apr 2010)
- DFARS 252.204-7010, Requirement for Contractor to Notify DOD if the Contractor's Activities are Subject to Reporting Under the US-International Atomic Energy Agency Additional Protocol [Note: The DOD Program Manager is (at the time of the publication of this document) Mark Dickinson, 1240 Isaac Hull Avenue SE Stop 8022, Washington Navy Yard, DC 20376-8022; Mark.dickinsonPnavv.imil; 202-781-6199]

TAC-2011 **Revision Original (dated March 2011)**

- DFARS 252.211-7000 Acquisition Streamlining (Dec 1991)
- DFARS 252.211-7003 Item Identification and Evaluation
- DFARS 252.215-7002 Cost Estimating System Requirements (Dec 2006)
- DFARS 252.219-7003 Small Disadvantaged and Woman – Owned Small
- DFARS 252.222-7006 Restrictions on the Use of Mandatory Arbitration Agreements (Dec 2010)
- DFARS 252.222-7999 Additional Requirements and Responsibly
- DFARS 252.223-7001, Hazard Warning Labels
- DFARS 252.223-7004 Drug- Free Force (Sep 1988)
- DFARS 252.223-7006, Prohibition on Storage and Disposal of Toxic and Hazardous Materials
- DFARS 252.223-7001 Hazard Warning Labels (Dec 1991)
- DFARS 252.223-7008 Prohibition of Hexavalent Chromium
- DFARS 252.225-7001, Buy American Act and Balance of Payments Program
- DFARS 252.225-7002, Qualifying Country Sources as Subcontractors
- DFARS 252.225-7004 Report of Intended Performance Outside the United States and Canada – Submission after award (Oct 2010)
- DFARS 252.225-7006 Quarterly Reporting of Actual Contract Performance Outside the United States (Oct 2010)
- DFARS 252.225-7012 Preference for Certain Domestic Commodities
- DFARS 252.225-7013, Duty Free Entry
- DFARS 252.225-7016, Restriction on Acquisition of Ball and Roller Bearings
- DFARS 252.225-7021 Trade Agreements (July 2009)
- DFARS 252.225-7025, Restriction on Acquisition of Forgings
- DFARS 252.225-7031, Secondary Arab Boycott of Israel
- DFARS 252.225-7036 Buy American Act- Free Trade Agreements- Balance
- DFARS 252.226-7001 Utilization of Indian Organization, Indian-owned Economic Enterprises, and Native Hawaiian Small Business Concerns (Sep 2004)
- DFARS 252.227-7013 Rights in Technical Data-Noncommercial Items (Nov 1995)
- DFARS 252.227-7014 Rights in Non-commercial Computer
- DFARS 252.227-7015 Technical Data – Commercial Items (Nov 1995)
- DFARS 252.227-7016 Rights in Bid or Proposal Information (Jun 1995)
- DFARS 252.227-7017 Identification and Assertion of Use, Release, or

TAC-2011 **Revision Original (dated March 2011)**

- DFARS 252.227-7019 Validation of Asserted Restrictions- Computer
- DFARS 252.227-7025 Limitation on the Use or Disclosure of Government furnished Information Marked with Restrictive
- DFARS 252.227-7030 Technical Data- Withholding of Payment
- DFARS 252.227-7037 Validation of Restrictive Markings on Technical Data
- DFARS 252.231-7000 Supplemental Cost Principles (Dec 1991)
- DFARS 252.243-7002 Requests for Equitable Adjustment
- DFARS 252.244-7000, Subcontracts for Commercial Items and Commercial Components (DoD Contracts)
- DFARS 252.246-7001 Alt I Warranty of Data – Alternate I (Dec 1991)
- DFARS 252.243-7002 Requests for Equitable Adjustment (Mar 1998)
- DFARS 252.244-7000 Subcontracts for Commercial Items and Commercial Components (DoD Contracts) (Nov 2010)
- DFARS 252.246-7003, Notification of Potential Safety Issues
- DFARS 252.247-7023 Transportation of Supplies by Sea
- DFARS 252.247-7024 Notification of Transportation of Supplies by Sea
- DFARS 252.249-7002 Notification of Anticipated Contract Termination or Reduction (Oct 2010)

b. INCORPORATED IN PURCHASE ORDERS EXCEEDING \$3,000

- FAR 52.219-28, Post-Award Small Business Program Representation
- FAR 52.222-54, Employment Eligibility Verification
 - The clause applies to commercial or noncommercial services (except for commercial services that are part of the purchase of a COTS item).
 - The clause does not apply to purchase orders with self-employed individuals
 - Within 30 calendar days of award, Seller must provide a copy of the "Maintain Company" page from the E-verify website to Buyer in order to demonstrate compliance with the enrollment requirement of the e-verify program.
 - Notwithstanding any other provisions contained within this purchase order, Buyer reserves the right, from time to time as Buyer deems appropriate, to request satisfactory proof of compliance from Seller and all lower tier suppliers. Therefore upon request, Seller shall provide satisfactory proof of compliance with this clause for its lower-tier suppliers.

c. INCORPORATED IN PURCHASE ORDERS EQUAL TO OR EXCEEDING \$10,000

- FAR 52.222-36, Affirmative Action for Workers with Disabilities
- FAR 52.222-26 Equal Opportunity
- FAR 52.222-40 Notification of Employee Rights under the National Labor Relations Act (Dec 2010)

d. INCORPORATED IN PURCHASE ORDERS EQUAL TO OR EXCEEDING \$15,000

FAR 52.222-20, Walsh-Healey Public Contracts Act

e. INCORPORATED IN PURCHASE ORDERS EXCEEDING \$30,000

- FAR 52.209-6, Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended or Proposed for Debarment
- DFARS 252.209-7004, Subcontracting with Firms That are Owned or Controlled by the Government of a Terrorist Country

f. INCORPORATED IN PURCHASE ORDERS EQUAL TO OR EXCEEDING \$100,000

- FAR 52.203-5 Covenant Against Contingent Fees
- FAR 52.203-6 Restrictions on Subcontractor Sales to the Government
- FAR 52.203-7 Anti-Kickback Procedures
- FAR 52.203-8 Cancellation, Rescission and Recovery of Funds for
- FAR 52.203-10 Price or Fee Adjustments for Illegal or Improper Activity
- FAR 52.203-12 Limitation on Payments to Influence Certain Federal
- FAR 52.215-2 Audit and Records – Negotiations
- FAR 52.215-14 Integrity of Unit Prices
- FAR 52.219-4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns

TAC-2011 **Revision Original (dated March 2011)**

- FAR 52.219-8 Utilization of Small Business Concerns
- FAR 52.222-2 Payment of Overtime Premiums (applicable solely to cost type orders)
- FAR 52.222-4 Contract Work Hours & Safety Standards Act Overtime Compensation
- FAR 52.222-35 Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era and other Eligible Veterans
- FAR 52.222-36 Affirmative Action for Workers with Disabilities (Oct 2010)
- FAR 52.222-37 Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era and other Eligible
- FAR 52.222-37, Employment Reports on Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans
- FAR 52.222-39 Notification of Employee Rights Concerning Payment of Union Dues or Fees
- FAR 52.223-14, Toxic Chemical Release Reporting (less paragraph (e) which is
- FAR 52.227-2 Notice and Assistance regarding Patent and Copyright Infringement
- FAR 52.242-13 Bankruptcy
- FAR 52.244-5 Competition in Subcontracting
- FAR 52.248-1 Value Engineering
- DFARS 252.203-7001 Prohibition on Persons Convicted of Fraud or other defense-contract-related felonies
- DFARS 252-225-7012 Preference for Certain Domestic Commodities
- DFARS 252.225-7015 Restriction on Acquisition of Hand or measuring tools
- DFARS 252.247-7023 Transportation of Supplies by Sea
- DFARS 252.247-7023 Transportation of Supplies by Sea
- DFARS 252.247-7024 Notification of Transportation of Supplies by Sea

. INCORPORATED IN PURCHASE ORDERS EQUAL TO OR EXCEEDING \$150,000

- FAR 52.203-5, Covenant Against Contingent Fees
- FAR 52.203-6, Restrictions on Subcontractor Sales to the Government
(For the purpose of this sub-article, the term "Government" shall continue to mean "Government".)

- FAR 52.203-12, Limitation on Payments to Influence Certain Federal Transactions
- FAR 52.215-2, Audit and Records - Negotiation (The Navy shall have the same rights provided the Comptroller of the United States.)
- FAR 52.215-14, Integrity of Unit Prices (less paragraph (b) and not applicable to acquisition of commercial items)
- FAR 52.219-8, Utilization of Small Business Concerns
 - FAR 52.222-4, Contract Work Hours and Safety Standards Act - Overtime Compensation (not applicable to the acquisition of commercial items)
 - FAR 52.222-38, Compliance with Veterans' Employment Reporting Requirements
 - FAR 52.227-1, Authorization and Consent
 - FAR 52.227-2, Notice and Assistance Regarding Patent and Copyright Infringement
 - FAR 52.242-13, Bankruptcy
 - FAR 52.244-5, Competition in Subcontracting
 - FAR 52.248-1, Value Engineering (subject to applicability exclusions per FAR 48.201)
 - DFARS 252.203-7001, Prohibition on Persons Convicted of Fraud or Other Defense-Contract-Related Felonies (not applicable to commercial items or components)
 - DFARS 252.225-7008, Restriction on Acquisition of Specialty Metals
 - DFARS 252.225-7009, Restriction on Acquisition of Certain Articles Containing Specialty Metals [Note: Excluding subpart (d) and including subpart (e)]
 - DFARS 252.225-7012, Preference for Certain Domestic Commodities
 - DFARS 252.225-7015, Restriction on Acquisition of Hand or Measuring Tools
 - DFARS 252.247-7023, Transportation of Supplies By Sea
 - DFARS 252.247-7024, Notification of Transportation of Supplies by Sea
- h. INCORPORATED IN PURCHASE ORDERS EQUAL TO OR EXCEEDING \$500,000
 - DFARS 252.226-7001, Utilization of Indian Organizations, Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns
- i. INCORPORATED IN PURCHASE ORDERS EQUAL TO OR EXCEEDING \$550,000
 - DFARS 252.249-7002, Notification of Anticipated Contract Terminations or Reductions
- j. INCORPORATED IN PURCHASE ORDERS EQUAL TO OR EXCEEDING \$650,000
 - FAR 52.219-9, Small Business Subcontracting Plan and Alternate II

- DFARS 252.219-7003, Small Business Subcontracting Plan DFARS 252.225-7004 Report of Intended Performance Outside the United States & Canada
- DFARS 52.215-10 Price Reduction for Defective Cost or Pricing Data
- DFARS 52.215-12 Subcontractor Cost or Pricing Data
- DFARS 52.215-19 Notification of Ownership Changes
- FAR 52.215-21 Requirements for Cost or Pricing Data or Information Other than Cost or Pricing Data
- DFARS 252.215-7000 Pricing Adjustments
- DFARS 252.215-7004 Excessive Pass-Through Charges Cost Accounting Standards
- DFARS 252.225-7004 Report of Intended Performance Outside the United States & Canada
- DFARS 52.219-9, Small Business Subcontracting Plan and Alternate II
- DFARS 252.219-7003, Small Business Subcontracting Plan
- DFARS 252.225-7006, Quarterly Reporting of Actual Contract Performance Outside the United States (not applicable to commercial items)
- DFARS 252.249-7002 Notification of Anticipated Contract Terminations or Reductions
- Cost Accounting Standards
 1. Full CAS Coverage. FAR 52.230-2, Cost Accounting Standards, applies to this purchase order unless the purchase order is (i) exempt pursuant to 48 CFR 9903.201-1 or (ii) subject to 48 CFR 9903.201-2 modified coverage.
 2. Modified CAS Coverage. FAR 52.230-3, Disclosure and Consistency of Cost Accounting Practices, applies to this purchase order if it complies with 48 CFR 9903.201-2 as follows:
 - (i). The purchase order is less than \$50 million awarded to a business unit that received less than \$50 million in net CAS-covered awards in the immediately preceding cost accounting period, and
 - (ii). If any one purchase order is awarded with modified CAS coverage, all CAS-covered purchase orders awarded to that business unit during that cost accounting period must also have modified coverage with the following exception: if the business unit receives a single CAS-covered purchase order award of \$50 million or more, that purchase order must be subject to full CAS coverage. Thereafter, any covered purchase order awarded in the same cost accounting period must also be subject to full CAS coverage, and
 - (iii). The Seller certified with its offer that it was eligible for and elected to use 48 CFR 9903.201-2 modified CAS coverage.
 3. CAS Administration. FAR 52.230-6, Administration of Cost Accounting Standards, applies to this purchase order if either FAR 52.230-2 or FAR 52.230-3 applies to this purchase order.

k. INCORPORATED IN PURCHASE ORDERS EQUAL TO OR EXCEEDING \$700,000

- FAR 52.215-10, Price Reduction for Defective Cost or Pricing Data
- FAR 52.215-12, Subcontractor Cost or Pricing Data
- FAR 52.215-15, Pension Adjustments and Asset Reversions
- FAR 52.215-18, Reversion or Adjustment of Plans for Post-Retirement Benefits (PRB) Other Than Pensions
- FAR 52.215-19, Notification of Ownership Changes
- FAR 52.215-21, Requirements for Cost or Pricing Data or Information Other Than Cost or Pricing Data – Modifications
- DFARS 252.215-7000, Pricing Adjustments

TAC-2011 **Revision Original (dated March 2011)**

I. INCORPORATED IN PURCHASE ORDERS EXCEEDING \$1,000,000

- DFARS 252.211-7000, Acquisition Streamlining
- DFARS 252.215-7004 Excessive Pass-Through Charges Cost Accounting Standards
- DFARS 52.219-9, Small Business Subcontracting Plan Alternate II
- DFARS 252.219-7003, Small Business Subcontracting Plan
- DFARS 252.222-7006, Restrictions on the Use of Mandatory Arbitration Agreements (Applies to FY10 funded actions only; does not apply to the acquisition of commercial items and commercial off-the-shelf items.)
- DFARS 252.222-7999 Additional Requirements and Responsibilities Restricting the use of Mandatory Arbitration agreements (Deviation-2010-0004) applies to FY10 funded actions only; does not apply to the acquisitions of commercial items and commercial-off-the-shelf-items

m. INCORPORATED IN PURCHASE ORDERS EXCEEDING \$5,000,000 AND A PERFORMANCE PERIOD OF GREATER THAN 120 DAYS

- FAR 52.203-13, Contractor Code of Business Ethics and Conduct

- o Seller shall, within fifteen (15) days after the required time period for establishing the business ethics awareness and compliance program and internal control system, provide Buyer with a written representation from an officer of Seller's organization stating that Seller has established the ongoing business ethics awareness and compliance program and internal control systems required by the clause.
- o Buyer shall not be liable to Seller in contract or tort with respect to any disclosures made by Buyer pursuant to FAR 52.203-13.

n. INCORPORATED IN PURCHASE ORDERS EXCEEDING \$12,500,000

- DFARS 252.225-7004, Report of Intended Performance Outside the United States and Canada – submission after award (not applicable to commercial items)

27. COST SUPPORT AND CERTIFICATION RELATIVE TO AMENDMENTS

- a. Except where Seller demonstrates upon sufficient evidence that a FAR 15.403-1(b) exception applies, Seller shall furnish cost or pricing data at the threshold specified in FAR 15.403-4 (a)(1) via a properly executed NN-P47, Contract Pricing Proposal Cover Sheet, for (i) any proposed amendment to this order with a price impact aggregating in excess of this threshold ; (ii) in support of final price agreements or termination settlement agreements which exceed this threshold.
- b. Seller shall furnish properly executed SFs 1428; 1435 through 1440 (as applicable) in support of final price agreements and termination settlement agreements.
- c. Upon completion of negotiations relative to the proposals described in a(i) and (a)(ii) above, Seller shall, within five working days, submit an updated NN-P47 and an NN-P34, Certificate of Current Cost or Pricing Data.

28. PRICING OF ADJUSTMENTS

When costs are a factor in any determination of a purchase order price adjustment pursuant to Article 6, "Changes", Article 22, "Suspension of Work for the Convenience of Buyer", Article 30, "Termination" or any other article or provision of this purchase order, such costs shall be in accordance with the provisions of FAR Part 31 and DFARS Part 231 in effect on October 7, 2010.

29. SUBTIER PROCUREMENTS

At least three weeks prior to placement, Seller shall submit to Buyer written notice of any subtier purchase order which, when placed, will exceed the threshold specified in FAR 15.403-4 (a)(1). Except as provided otherwise within this Article, such orders may not be placed absent the successful subtier offeror's submission of certified cost or pricing data. The successful subtier offeror need not submit certified data provided (i) a FAR 15.403-1(b) exception applies and (ii) Seller's notice satisfies the following:

- a. Where basis of award is on competition such notice shall be accompanied by the factors utilized by the Seller in determining the existence of adequate competition and shall include copies of all competitive quotations upon which award of each purchase order will be based. Such notice need not be submitted if the proposed subtier procurement action was previously identified in Seller's proposal to Buyer and no significant changes have occurred in either prices or other competitive factors then previously disclosed.
- b. Where a basis of award is other than competition such notice shall include information sufficient to demonstrate the applicability of the exception utilized.

Buyer reserves the right to unilaterally reject any Seller assertion that a cost or pricing data exception applies to a Seller subtier procurement where Buyer in good faith believes the criteria for exception have not been satisfied.

30. TERMINATION

Without limiting Buyer's right to terminate this purchase order for the default of Seller as provided in the article entitled, "Default", Buyer may terminate all or any part of the work under this purchase order in accordance with the provisions of FAR 52.249-2, Termination for Convenience of the Government (Fixed-Price), less subparagraph (j) in effect on October 7, 2010 except that (i) the meanings at Article 1, Definitions and Meanings to these terms and conditions, to include meaning b(3) and its note, shall specifically apply and (ii) the time limit for submittal of termination settlement proposal as specified in paragraph (e) of such article is changed to read "four months from the effective date of termination or such further period as may be mutually agreed upon". For the requirements of certifying a termination settlement proposal refer to Article 6, Changes, paragraph (h).

31. FRAUD OR FALSIFICATION

- a. This purchase order and activities hereunder are within the jurisdiction of the Department of Energy and/or the Navy. Any knowing and willful act to falsify, conceal or alter a material fact, or any false, fraudulent or fictitious statement or rerepresentation in connection with the performance of work under this purchase order may be punishable in accordance with applicable Federal Statutes.
- b. Seller agrees that all employees engaged in the performance of this purchase order will be, if they have not been previously, informed in writing prior to commencing performance of work under this purchase order that there is a risk of Federal criminal penalties associated with any falsification, concealment or misrepresentation in connection with work performed under this purchase order. Seller agrees that a signed statement shall be, if it has not been previously, obtained from said employees prior to their commencing performance of work under this purchase order that they have been so informed. Such statements shall be retained by the Seller for at least three years after final payment on this purchase order. An acceptable form for such a statement is substantially as follows:

"This company/division/department/branch performs work under contracts which are within the jurisdiction of departments of the United States Government. Some of the work performed under these contracts affects the national security of the United States and the requirements of these contracts are designed to ensure that essential attributes of the work are carefully checked or inspected and that records accurately reflect the results of all work. Any falsification, concealment or alteration of any material fact, or any false, fraudulent or fictitious statement or representation in connection with the work under any contract within the jurisdiction of the Government is not only prohibited by company policy, but may also be punishable under Federal Law. Please acknowledge by your signature that you have read and understand the above."
- c. Seller must also agree to include the following statement preprinted (or otherwise permanently affixed) on each manufacturing, inspection or test record used in conjunction with the subject subcontract:

"Note: The recording of false, fictitious or fraudulent statements or entries on this document may be punishable as a felony under Federal Statute."
- d. Seller shall include all provisions of this Article including this sentence in all subtier contracts under this order. Any inability or unwillingness of a subtier supplier to comply with this provision should be documented in writing and submitted to the Prime Contractor.

- e. Seller shall advise Buyer promptly upon identification of any potential or actual fraud and falsification incidents pertaining to this order and occurring either within its own organization or within its subtier(s) organization.

32. DISCLOSURE OF INFORMATION

- a. General Requirements. The Seller shall not release to anyone outside the Seller's organization any unclassified information, regardless of medium (e.g., film, tape, document, display, brochure, etc.), regardless of purpose (e.g., P.O. performance, advertising, promotion, etc.) pertaining to any part of this purchase order or any program related to this purchase order unless -

- (1) The Buyer has given prior written approval; or
- (2) The information is otherwise in the public domain before the date of release.

- b. Request Format and Timing. Requests for approval shall identify the specific information to be released, the medium to be used, and the purpose for the release. The Seller shall submit its request to Buyer at least sixty (60) days before the proposed date for release.

- c. Exception/Approval. In accordance with Paragraph (a)(1) above, approval is granted to Seller so that, as necessary, it may disclose unclassified information, including sensitive unclassified information, to domestic entities under subcontract either actually or prospectively, (including subtler orders), regardless of tier, under the purchase order for the provision of Naval Nuclear Propulsion Program (NNPP) supplies or services, entities of the Federal Government involved in the Naval Nuclear Propulsion Program having a need to know; and other entities performing NNPP work. This authority does not authorize Seller to release any information under or related to the subject order to any entity not specified above, or not specifically affiliated with Seller under the subject purchase order through a contractual or prospective contractual relationship. In addition, this authority does not authorize the Seller to release any information under or related to the subject order to a foreign source prior to submitting the information to the Buyer for either specific Buyer approval or information as required by the purchase order.

Moreover, approval for release of information to subtiers and other entities with which Seller has a contractual or prospective contractual relationship does not extend to those entities who, regardless of relationship, do not have in place proper safeguards and procedures for receipt and handling of the sensitive information.

The requirements of Paragraphs (a) and (b) above remain in effect as set forth and Seller must receive approval for release to any entity not covered by the authority set forth above in this paragraph (c). NOTE: For more specific guidance in this area, see security control documentation applicable to this order.

- d. Litigation. Should any information described in (a) above be requested, subpoenaed, or otherwise sought by a court or other judicial or administrative authority, this should be promptly brought to the attention of the Buyer to permit appropriate measures to be taken to protect the information. Under no circumstances should information, other than Paragraph (a)(2) information, be released to such authority without prior notification to, and agreement of, Buyer.
- e. Survivability. Seller agrees that the requirements of this Article 32, to include Seller's obligation to obtain prior Buyer approval of any release other than a Paragraph (a)(2) or (c) release, shall survive the purchase order and that Seller shall not for a period of twenty years subsequent to the issuance of the purchase order either directly or indirectly issue any such release without the requisite approval of Buyer, its successors or assignee.
- f. Mandatory Passdown. Seller shall include all provisions of this Article 32, including this sentence, in all subtier orders under this purchase order. Subtler requests for authorization to release information shall be submitted through Seller to Buyer.

33. REIMBURSEMENT FOR UNALLOWABLE COSTS

- a. Definition. "Proposal" means the definition of "proposal" at FAR 52.242-3(a), except (i) "Seller" and "purchase order" shall respectively replace the references to "Contractor" and "Contract," and (ii) "proposal" shall include any other adjustment to the price of the order based on costs incurred (e.g., requests for equitable adjustment pursuant to Article 6, Changes, Article 22, Suspension of Work for the Convenience of the Buyer and Article 30, Termination).
- b. Seller shall not include in any proposal any cost which FAR Part 31 or DFARS Part 231 (in its form at the time the cost is submitted in a Seller proposal) makes unallowable, as defined in FAR Subpart 2.1.
- c. Should Seller include within any proposal any cost made unallowable by FAR Part 31 and/or DFARS Part 231, and should Seller thereafter receive any payment on the basis of such unallowable cost, then Seller shall, upon its own initiative or at Buyer's request, reimburse Buyer the full amount of such unallowable cost it received plus interest as determined in accordance with FAR 52.232-17, Interest.
- d. FAR 52.242-3, Penalties for Unallowable Costs, being inapplicable to Government subcontracts, Seller shall in no manner be liable for any penalty or amount in excess of the amount of reimbursement determined pursuant to paragraph (c) above.

TECHNICAL DATA AND COMPUTER SOFTWARE AUTHORIZED MARKINGS

In accordance with Article 10, Rights in Technical Data and Computer Software, which incorporates DFARS 252.227-7013 and 252.227-7014 and modifies paragraph (f), Marking Requirements, to both clauses, the following legends are authorized for use on technical data and computer software/computer software documentation:

1. Technical Data

- Government Purpose Rights Legend. Data delivered or otherwise furnished with Government Purpose Rights shall be marked as follows:

• L
i
m
it
e
d
R
i
g
h
t
s
L

<i>Government Purpose Rights</i>	

The Government's rights to use modify, reproduce, release, perform, display, or disclose this technical data are restricted by paragraph (b)(2) of the Rights in Technical Data -- Noncommercial Items clause contained in DFARS 252.227-7013 as incorporated within the above purchase order and prime contract. No restrictions apply after the expiration data shown above. Any reproduction of the technical data or portions thereof marked with this legend must also reproduce the markings. The following entities, their respective successors and assigns, shall possess the right to exercise said property rights, as if they were the Government, on behalf of the Government for the sole purpose of carrying out functions related to this purchase order: Bechtel Plant Machinery, Inc., Bechtel Marine Propulsion Corporation (Bettis and KAPL), General Dynamics Electric Boat and Northrop Grumman - Newport News.

end. Data delivered or otherwise furnished with Limited Rights shall be marked as follows:

• Un
li
mi
te
d
Ri
gh
ts
Le
ge
nd
-
D
FA
RS

<i>Limited Rights</i>	

The Government's rights to use, modify, reproduce, release, perform, display, or disclose these technical data are restricted by paragraph (b)(3) of the Rights in Technical Data -- Noncommercial Items clause contained in DEARS 252.227-7013, as incorporated within the above purchase order and prime contract. Any reproduction of technical data or portions thereof marked with this legend must also reproduce the markings. Any person, other than the Government and the entities listed in the following sentence, who has been provided access to such data must promptly notify the above named Contractor. The following entities, their respective successors and assigns, shall possess the right to exercise said property rights, as if they were the Government, on behalf of the Government for the sole purpose of carrying out functions related to this purchase order: Bechtel Plant Machinery, Inc., Bechtel Marine Propulsion Corporation (Bettis and KAPL), General Dynamics Electric Boat and Northrop Grumman - Newport News.

252.227-7013 does not authorize the application of a legend on data to be delivered with unlimited rights. Therefore, no legend should be placed upon data provided with Unlimited Rights. However, should Seller deem it necessary to include a legend to document any rights it may have retained to the data, then the following legend may be utilized (no other legend may be used absent Buyer approval):

*Copyright, [year], [Supplier Name] (Copyright applies to commercial uses only)
Notwithstanding the above copyright/restriction, the Government possesses DFARS 252.227-7013
Unlimited Rights if this is technical data and DEARS 252.227-7014 Unlimited Rights
if this is computer software or computer software documentation*

2. Computer Software and Computer Software Documentation

- Government Purpose Rights Legend. Computer software and computer software documentation delivered or otherwise furnished with Government Purpose Rights shall be marked as follows:

Government Purpose Rights	

The Government's rights to use, modify, reproduce, release, perform, display, or disclose this [software/software documentation] are restricted by paragraph (b)(2) of the Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation clause contained in DFARS 252.227-7014, as incorporated within the above purchase order and prime contract. No restrictions apply after the expiration data shown above. Any reproduction of the software and/or software documentation or portions thereof marked with this legend must also reproduce the markings. The following entities, their respective successors and assigns, shall possess the right to exercise said property rights, as if they were the Government, on behalf of the Government for the sole purpose of carrying out functions related to this purchase order: Bechtel Plant Machinery, Inc., Bechtel Marine Propulsion Corporation (Bettis and KAPL), General Dynamics Electric Boat and Northrop Grumman - Newport News

- Restricted Rights Legend. Computer software and computer software documentation delivered or otherwise furnished with Restricted Rights shall be marked as follows:

Restricted Rights	

The Government's rights to use, modify, reproduce, release, ¹perform, display, or disclose this [software/software documentation] are restricted by paragraph (b)(3) of the Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentation clause contained in DFARS 252.227-7014 (as incorporated within the above purchase order and prime contract). Any reproduction of the computer software and/or computer software documentation or portions thereof marked with this legend must also reproduce the markings. Any person, other than the Government and the entities listed in the following sentence, who has been provided access to such software must promptly notify the above named Contractor. The following entities, their respective successors and assigns, shall possess the right to exercise said property rights, as if they were the Government, on behalf of the Government for the sole purpose of carrying out functions related to this purchase order: Bechtel Plant Machinery, Inc., Bechtel Marine Propulsion Corporation (Bettis and KAPL), General Dynamics Electric Boat and Northrop Grumman - Newport News

- Unlimited Rights Legend. DFARS 252.227-7014 does not authorize the application of a legend on computer software or computer software documentation that is provided with unlimited rights. Therefore, no legend should be placed upon computer software or computer software documentation provided with Unlimited Rights. However, should Seller deem it necessary to include a legend to document any rights it may have retained to the computer software/computer software documentation, then the following legend may be utilized (no other legend may be used absent Buyer approval):

*Copyright, [year], [Supplier Name] (Copyright applies to commercial uses only)
Notwithstanding the above copyright/restriction, the Government possesses DFARS 252.227-7013
Unlimited Rights if this is technical data and DFARS 252.227-7014 Unlimited Rights
if this is computer software or computer software documentation*

The following articles are modified in this Addendum A for Cost Type Orders.

3. **DELIVERY** is restated in its entirety as follows:

In the event the Seller encounters difficulty in meeting performance requirements, or when Seller anticipates difficulty in complying with the Purchase Order schedule or date, Seller shall immediately notify the Buyer, in writing, giving pertinent details: provided, however, that such notification shall be for information only and its receipt by Buyer shall not be construed as a waiver by Buyer (i) of any delivery schedule or date, or (ii) of compliance with any other order requirements by the Seller, or (iii) of any other rights or remedies provided to Buyer by law under this order.

5. **PAYMENTS** is deleted in its entirety. (See Addendum A, Article 26 Clauses Incorporated By Reference FAR 52.216-7, FAR 52.216-8, FAR 52.216-10, FAR 52.216-11, FAR 52.222-2, and DFARS 252.232-7004.)

6. **CHANGES** paragraph b. is modified and **paragraph k.** is added as follows:

b. Should this be a cost reimbursement order, if any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the work under this order, whether or not changed by the order, or otherwise affects any other terms and conditions of this order, the Buyer shall make an equitable adjustment in the (1) estimated cost, delivery or completion schedule, or both; (2) amount of any fixed fee; and (3) other affected terms and shall modify the order accordingly. Should this be a time-and-material or labor-hour order, if any change causes an increase or decrease in any hourly rate, the ceiling price, or the time required for performance of any part of the work under this order, whether or not changed by the order, or otherwise affects any other terms and conditions of this order, the Buyer shall make an equitable adjustment in the (1) ceiling price, (2) hourly rates, (3) delivery schedule, and (4) other affected terms and shall modify the order accordingly.

k. Notwithstanding the terms and conditions of paragraphs (a) and (b) above, should this be a cost reimbursement order, then the estimated cost of this purchase order and, if this purchase order is incrementally funded, the funds allotted for the performance of this purchase order, shall not be increased or considered to be increased except by specific written modification of the purchase order indicating the new purchase order estimated cost and, if this purchase order is incrementally funded, the new amount allotted to the purchase order. Until this modification is made, the Seller shall not be obligated to continue performance or incur costs beyond the point established in the Limitation of Cost Article and, if this purchase order is incrementally funded, the Limitation of Funds Article, of this purchase order.

8. **INSPECTION** is deleted in its entirety. (See Addendum A, Article 26a, Clauses Incorporated By Reference FAR 52.246-3, 52.246-5, and 52.246-6.)

9. **WARRANTY** is re-titled **COMPUTER HARDWARE, SOFTWARE AND FIRMWARE REVIEW**, and paragraphs a. through e. and g. are deleted in their entirety. Paragraph 1. is modified to read as follows:

Seller agrees to perform an Anti-Virus Review and Year 2000 Review for computer hardware, software and firmware under this order. The following provision entitled "Anti-Virus Review" applies to all orders and the following provision entitled "Year 2000 Review" applies to all orders for (i) customized (i.e., developed directly for Buyer) software, hardware and/or firmware and (ii) software, hardware and firmware which is incorporated within items furnished under this order. FAR 52.246-3, 52.246-5 and/or 52.246-6, whichever being applicable to the work performed under this purchase order, shall apply to hardware, software and firmware returned to Seller under paragraphs (a) and (b) below for correction or replacement.

1. **Virus Warranty** is modified to read **Anti-Virus Review**.

2. Year 2000 Warranty is deleted in its entirety and replaced by Year 2000 Review as follows:

Seller shall review that each hardware, software and firmware product manufactured, developed, or integrated by Seller and delivered under this purchase order (if this order is for supplies) and/or maintained under this purchase order (if this order is for maintenance services) shall be able to process data from, into and between the years beginning with 19 (i.e., 1900-1999) and the years beginning with 20 (i.e., 2000-2099). This includes, but is not limited to, calculating, comparing and sequencing when used in accordance with Seller's product documentation. If the purchase order requires that specific listed products shall perform as a system in accordance with the foregoing review, then that review shall apply to those listed products as a system. Repair or replacement of non-compliant products shall be with products that are Year 2000 compliant. Nothing in this review shall be construed to limit the rights or remedies the Buyer may otherwise have under this purchase order with respect to defects other than Year 2000 performance.

26. **CLAUSES INCORPORATED BY REFERENCE**

Subparagraphs a. and c. are modified as follows:

a. INCORPORATED IN PURCHASE ORDERS AT ALL DOLLAR LEVELS is modified to:

1. Add the following:

- FAR 52.216-7, Allowable Cost and Payment, less paragraph (f), Quick-closeout procedures, which is deleted; paragraph (a)(3), insert "30th"
- FAR 52.216-8, Fixed Fee, less the final two sentences of paragraph (b) which are deleted
- FAR 52.216-10, Incentive Fee
- FAR 52.216-11, Cost Contract - No Fee
- FAR 52.232-20, Limitation of Cost
- FAR 52.232-22, Limitation of Funds (applicable solely to incrementally funded cost-reimbursement orders)
- FAR 52.244-2, Subcontracts and Alternate I
- FAR 52.245-1, Government Property (with Alternate I when the conditions of FAR 45.107(a)(2) with reference to FAR 45.104(a) are met)
- FAR 52.246-3, Inspection of Supplies - Cost Reimbursement modified as follows:
 - a. The first sentence of paragraph (f) beginning "At any time.." and ending "to be delivered under this contract," are deleted and the following substituted in lieu thereof: "Within three (3) years after final acceptance of a component described in the contract or within one (1) year from its shipboard installation, or one (1) year from initial operation subsequent to final acceptance, whichever is sooner..."
 - b. Delete paragraph (g)(2)
- FAR 52.246-5, Inspection of Services - Cost Reimbursement

- FAR 52.246-6, Inspection - Time-and-Material and Labor-Hour modified as follows:
 - (a) The first sentence of paragraph (f) beginning "At any time..." and ending "to be delivered under this contract," are deleted and the following substituted in lieu thereof: "Within three (3) years after final acceptance of a component described in the Schedule or within one (1) year from its shipboard installation, or one (1) year from initial operation subsequent to final acceptance, whichever is sooner..."
 - (b) Delete paragraph (g)(2)

- FAR 52.249-14, Excusable Delays

2. Delete the following:

- FAR 52.249-8, Default (Fixed Price Supply and Service)

c. **INCORPORATED IN PURCHASE ORDERS EQUAL TO OR EXCEEDING \$150,000** is modified to add the following:

- FAR 52.222-2, Payment for Overtime Premiums, modified to incorporate "zero, absent advance approval, in writing, by Buyer" at the blank space within paragraph (a) (applicable solely to cost-reimbursement orders)

30. **TERMINATION** is restated as follows:

Buyer may terminate all or any part of the work under this purchase order in accordance with the provisions of (I) for cost-reimbursement orders, FAR 52.249-6, Termination (Cost Reimbursement) or (ii) for time-and-material and labor-hour orders, FAR 52.249-6, Termination (Cost Reimbursement) and its Alternate IV. Regardless of which version of the clause applies, (i) subparagraph (j) in effect on October 7, 2010 is deleted in its entirety, (ii) the meanings at Article 1, Definitions and Meanings to these terms and conditions, to include meaning b(3) and its note, shall specifically apply and (iii) the time limit for submittal of termination settlement proposal as specified in paragraph (f) of such clause is changed to "four months from the effective date of termination or such further period as may be mutually agreed upon". For the requirements of certifying a termination settlement proposal refer to Article 6, Changes, paragraph (h).

SUBTIER PASSDOWN REQUIREMENTS

The following table is provided to assist the Seller in determining the articles and clauses which must be passed down when Seller procures supplies or services necessary to complete this purchase order.

"X" Mark in Mandatory Passdown Column - means passdown is required. Where an article or clause is mandatory it is required in all subtier orders, regardless of tier, unless stated otherwise. Where there is a note adjacent to a mandatory passdown then the passdown is mandatory solely to the extent provided for in the note. Should Buyer fail to mandate the passdown of an article or clause that must be passed down to comply with Federal law or regulation, such clause shall be considered to have been passed down.

Asterisk (*) in Mandatory Passdown Column - indicates a non-mandatory passdown which Buyer recommends Seller consider passing down to protect Seller's position. (Note: it may be to Seller's advantage to passdown clauses not marked with an asterisk. The asterisk clauses are provided by Buyer solely as a courtesy and Seller remains obligated to determine which nonmandatory passdowns are in Seller's best interests to pass down.)

Effectivity Point – unless stated otherwise in a note adjacent to the clause or article: (i) the Article 26 mandatory passdowns are mandatory at the same monetary level for which the clause is applicable to the Seller and (ii) all other mandatory passdowns are applicable to all subtier orders regardless of dollar value. Buyer suggests that recommended passdown articles be included in all orders.

Article	Description	Mandatory Passdown	Notes
1	Definitions and Meanings		Seller should consider passing down the Section (b)(3) note pertaining to Buyer's and others' exercise of the Government's property rights.
2	Contract Rights, Obligations and Disclaimers	.t	
3	Delivery	*	
4	Taxes		
5	Payments		Section (g) applies to protect property rights if progress payments are incorporated.
6	Changes		
7	Liens		
8	Inspection	X	Sections (a), (c), and (g) are mandatory passdowns for all fixed type orders; remainder of clause is not mandatory passdown. (See Addendum A, Article 26a FAR 52.246-3, 52.246-5, and 52.246-6 for cost type orders)
9	Warranty (applicable to fixed type contracts)/ Computer Hardware, Software and Firmware Review (applicable to cost type orders)		
10	Rights in Technical Data and Computer Software		
	a) Rights in Technical Data - Noncommercial Items	X	Mandatory if noncommercial technical data is a subtier order deliverable.
	b) Rights in Noncommercial Computer Software and Noncommercial Computer Software Documentatic	X	Mandatory if noncommercial computer software or computer software documentation is a subtler deliverable.
	c) Technical Data – Commercial Items		
	d) Rights in Bid or Proposal Information	X	
	e) Validation of Asserted Restrictions – Computer Software	X	Mandatory if noncommercial computer software or computer software documentation is a subtier deliverable.
	f) Limitation on the Use or Disclosure of Government- Furnished Information Marked with Restrictive Legends		
	g) Deferred Ordering of Technical Data or Computer Software		
	h) Technical Data – Withholding of Payment		
	i) Validation of Restrictive Markings on Technical Data	X	Mandatory if noncommercial technical data is a subtier order deliverable.
11	Patent Rights – Ownership by the Government	X	Mandatory if subtler order is placed with large business for experimental, developmental or research work.

Addendum B

Article	Description	Mandatory Passdown	Notes
12	Patent Rights – Small Business Firm or Nonprofit Organization	X	Mandatory if subtier order is placed with small business firm or nonprofit organization for experimental, developmental or research work.
13	Furnished Information		
14	Classified Information and Naval Nuclear Propulsion Information		
15	Title		
16	Applicable Laws / Compliance with Laws/Indemnification		
17	Proprietary Information		
18	Assignment		
19	Set-Off		
20	Permits		
21	Special Materials		
22	Suspension of Work for Convenience of the Buyer		
23	Work Indemnifications		
24	Use of Government Property, Special Tooling, or Special Test Equipment		
25	Preproduction Costs		
26	Clauses Incorporated by Reference		
26a	Incorporated in Purchase Orders at All Dollar Levels		
	52.202-1, Definitions		
	52.203-3, Gratuities		
	52.204-2, Security Requirements	X	Mandatory for all subtier orders that provide access to classified information.
	52.211-5, Material Requirements		
	52.211-15, Defense Priority and Allocation Requirements		Recommended priority level for passdown is at the priority level applicable to the Seller's order.
	52.216-7, Allowable Cost and Payment (Cost Type Contracts)		
	52.216-8, Fixed Fee (Cost Type Contracts)		
	52.216-10, Incentive Fee (Cost Type Contracts)		
	52.216-11, Cost Contract – No Fee (Cost Type Contracts)		
	52.222-1, Notice to Government of Labor Disputes	X	
	52.222-19, Child Labor – Cooperation with Authorities and Remedies	X	
	52.222-21, Prohibition of Segregated Facilities	X	Mandatory on every subtier order that is subject to the EEO clause of this contract.
	52.222-26, Equal Opportunity	X	
	52.222-50, Combating Trafficking in Persons	X	
	52.223-3, Hazardous Material Identification and Material Safety Data		
	52.223-7, Notice of Radioactive Materials	X	Mandatory for all subtier orders meeting criteria in paragraph (a) of the clause. Shipments of these materials should be coordinated with Buyer to ensure that proper licenses, authorization or permits are obtained prior to shipment.
	52.223-11, Ozone-Depleting Substances		
	52.225-13, Restrictions on Certain Foreign Purchases	X	
	52.227-3, Patent Indemnity		Seller should consider passdown in all orders for supplies and/or services that normally are or have been sold or offered for sale by any supplier to the public in the commercial open market or are the same as such supplies or services with relatively minor modifications.
	52.227-10, Filing of Patent Applications – Classified Subject Matter	X	Mandatory on all subtier orders which cover or are likely to cover classified subject matter.
	52.232-17, Interest		

Addendum B

Article	Description	Mandatory Passdown	Notes
26a	Incorporated in Purchase Orders at All Dollars Levels (Continued)		
	52.232-20, Limitation of Costs (Cost Type Contracts)		
	52.232-22, Limitation of Funds (Incrementally funded Cost-reimbursement Contracts)		
	52.234-1, Industrial Resources Developed Under Defense Production Act, Title III	X	
	52.244-2, Subcontracts and Alternate I (Cost Type Contracts)		
	52.244-6, Subcontract for Commercial Items	X	In the event of a conflict between the mandatory passdowns of this Article 26 and the mandatory passdowns of FAR 52.244-6, the mandatory passdowns of FAR 52.244-6 (including the clause FAIR 52.244-6 itself) shall prevail and be the sole Article 26 passdown provisions (Limitation: this note shall in no manner alter or affect the Seller's mandatory passdown obligations under all remaining articles of these terms and conditions.)
	52.245-1, Government Property (with Alternate I when the conditions stated in FAR 45.107(a)(2) with reference to 45.104(a) are met)		
	52.245-9, Use and Charges		
	52.246-3, Inspection of Supplies-Cost Reimbursement (Cost Type Contracts)	X	
	52.246-5, Inspection of Services-Cost Reimbursement (Cost Type Contracts)	X	
	52.246-6, Inspection – Time-and-Material and Labor Hour (Cost Type Contracts)	X	
	52.246-23, Limitation of Liability		
	52.246-25, Limitation of Liability – Services		
	52.247-63, Preference for U.S. Flag Air Carriers	X	Applies when international air transportation may be involved.
	52.249-8, Default (Fixed Price Supply and Service)		
	52.249-14, Excusable Delays (Cost Type Contracts)		
	52.253-1, Computer Generated Forms		
	252.203-7000, Requirements Relating to Compensation of Former DOD Officials	X	
	252.203-7002, Requirement to Inform Employees of Whistleblower Rights	X	
	252.204-7010, Requirement for Contractor to Notify DOD if the Contractor's Activities are Subject to Reporting Under the U.S.-International Atomic Energy Agency Additional Protocol	X	Mandatory, per DFARS 204.470-3, for contracts involving technologies directly related to nuclear power production
	252.223-7001, Hazard Warning Labels		
	252.223-7006, Prohibition on Storage and Disposal of Toxic and Hazardous Materials		
	252.225-7001, Buy American Act and Balance of Payments Program		
	252.225-7002, Qualifying Country Sources as Subcontractors		
	252.225-7013, Duty Free Entry	X	Mandatory in all subtier orders for supplies.
	252.225-7016, Restriction on Acquisition of Ball and Roller Bearings	X	Mandatory in all subtier orders for the provision of an item containing ball or roller bearings.
	252.225-7025, Restriction on Acquisition of Forgings	X	Mandatory in all subtier orders for the provision of an item containing a restricted forging item.
	252.225-7031, Secondary Arab Boycott of Israel	X	
	252.244-7000, Subcontracts for Commercial Items and Commercial Components (DoD contracts)	X	Mandatory in subtier orders for commercial items or commercial components awarded at any tier.
	252.246-7003, Notification of Potential Safety Issues	X	
26b	Incorporated in Purchase Orders Exceeding \$3,000		

Addendum B

Article	Description	Mandatory Passdown	Notes
	52.219-28, Post-Award Small Business Program Rerepresentation		
	FAR 52.222-54, Employment Eligibility Verification	X	Applies only to (1) commercial or non-commercial services; except for commercial services that are part of the purchase of a commercial off-the-shelf item, (2) has a value of more than \$3,000 and (3) includes work performed in the United States.
26c	Incorporated in Purchase Orders Equal to or Exceeding \$10,000		
	52.222-36, Affirmative Action for Workers with Disabilities	X	
26d	Incorporated in Purchase Orders Equal to or Exceeding \$15,000		
	52.222-20, Walsh-Healy Public Contracts Act		
26e	Incorporated in Purchase Orders Exceeding \$30,000		
	52.209-6, Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment	X	
	252.209-7004, Subcontracting with Firms That are Owned or Controlled by the Government of a Terrorist Country	X	
26f	Incorporated in Purchase Orders Equal to or Exceeding \$100,000		
	52.219-4, Notice of Price Evaluation Preference for HUBZone Small Business Concerns		
	52.222-35, Equal Opportunity for Special Disabled	X	
	52.222-37, Employment Reports on Special Disabled	X	
	52-223-14, Toxic Chemical Release Reporting (less		
	252.226-7001, Utilization of Indian Organizations, Indian-Owned Economic Enterprises, and Native Hawaiian Small Business Concerns		
26g	Incorporated in Purchase Orders Equal to or Exceeding \$150,000		
	52.203-5, Covenant Against Contingent Fees		
	52.203-6, Restriction on Subcontractor Sales to the		
	52.203-7, Anti-Kickback Procedures, less paragraph (c)(X	Mandatory except for paragraph (c)(1).
	52.203-8, Cancellation, Rescission and Recovery of Fun for Illegal or Improper Activity		
	52.203-10, Price or Fee Adjustment for Illegal or Improper Activity		
	52.203-12, Limitation on Payments to Influence Certain Federal Transactions		
	52.215-2, Audit and Records--Negotiation	X	Mandatory if the subtier order (1) is cost-reimbursement, incentive, time-and-materials, labor-hour, or price-redeterminable, or combination thereof, (2) required submission of cost or pricing data, or (3) requires the subtier's furnishing of paragraph (e) reports.
	52.215-14, Integrity of Unit Prices (less paragraph (b), which is deleted)	X	Passdown is not applicable to commercial items.
	52.219-8, Utilization of Small Business Concerns		
	52.222-2, Payment of Overtime Premiums (Cost Type Contracts)		
	52.222-4, Contract Work Hours & Safety Standards Act - Overtime Compensation		
	52.222-38, Compliance with Veterans' Employment Reporting Requirements		
	52.227-1, Authorization and Consent and Alternate I	X	

Addendum B

Article	Description	Mandatory Passdown	Notes
	52.227-2, Notice and Assistance Regarding Patent and Copyright Infringement	X	
	52.242-13, Bankruptcy		
	52.244-5, Competition in Subcontracting		
	52.248-1, Value Engineering		
	252.2037001, Prohibition on Persons Convicted of Fraud or Other Defense-Contract-Related Felonies.		The clause is not applicable to commercial items or components.
	252.225-7008, Restriction on Acquisition of Specialty Metals	X	Mandatory passdown in subtier contracts that exceed \$150,000 and require the delivery of specialty metals as end items.
	252.225-7009, Restriction on Acquisition of Certain Articles Containing Specialty Metals	X	Mandatory passdown in subtier contracts that exceed \$150,000 and require delivery of components of ships which contain specialty metals.
	252.225-7012, Preference for Certain Domestic Commodities		
	252.225-7015, Restriction on Acquisition of Hand or Measuring Tools		
	252.247-7023, Transportation of Supplies by Sea	X	
	252.247-7024, Notification of Transportation of Supplies by Sea	X	
26h	Incorporated in Purchase Orders Equal to or Exceeding \$500,000		
	252.226-7001, Utilization of Indian Organizations, Indian Owned Economic Enterprises, and Native Hawaiian Sme Business Concerns		
26i	Incorporated in Purchase Orders Equal to or Exceeding \$550,000		
	252.249-7002, Notification of Anticipated Contract		Mandatory passdown for subtier contracts equal to or exceeding \$100,000.
26j	Incorporated in Purchase Orders Equal to or Exceeding \$650,000		
	52.219-9, Small Business Subcontracting Plan and		
	252.219-7003, Small Business Subcontracting Plan	X	
	252.225-7006, Quarterly Reporting of Actual		
	Cost Accounting Standards		
26k	Incorporated in Purchase Orders Equal to or Exceeding \$700,000		
	52.215-10, Price Reduction for Defective Cost or		
	52.215-12, Subcontractor Cost or Pricing Data	X	
	52-215-15, Pensions Adjustments and Asset Reversions	X	Mandatory in all subtier solicitations and orders for which it is anticipated that certified cost or pricing data will be required or for any preaward or postaward cost determination which will be subject to FAR subpart 31.
	52.215-18, Reversion or Adjustment of Plans for Post-		Same as 52.215-15
	52.215-19, Notification or Ownership Changes	X	Same as 52.215-15
	52.215-21, Requirements for cost or Pricing Data or Information Other Than Cost or Pricing Data—	X	Mandatory in all subtler orders, regardless of dollar value, if it is reasonably certain that cost or pricing data or information other than cost or pricing data will be required for modifications.
	252.215-7000, Pricing Adjustments	X	
26l	Incorporated in Purchase Orders Equal to or Exceeding \$1,000,000		
	252.211-7000, Acquisition Streamlining	X	
	252.222-7006, Restrictions on the use of Mandatory Arbitration Agreements	X	Applies to FY10 funded actions only; does not apply to commercial and commercial off-the-shelf items.

Addendum B

Article	Description	Mandatory Passdown	Notes
26m	Incorporated in Purchase Orders Exceeding \$5,000,000 and a Performance Period of More than 120 Days		
	52.203-13, Contractor Code of Business Ethics and Conduct	X	Mandatory if the subtier contract's value is in excess of \$5,000,000 and a performance period of more than 120 days.
26n	Incorporated in Purchase Orders Exceeding \$12,500,000		
	252.225-7004, Report of Intended Performance Outside the United States and Canada – Submissions After Award		The clause is not applicable to commercial items. The clause is applicable to first tier suppliers, only. Reporting requirements are limited to: subcontracts which exceed \$650,000, and could be performed inside the United States or Canada.
27	Cost Support and Certifications Relative to Amendments	X	Mandatory in all subtler amendment solicitations and orders for which it is anticipated that certified cost or pricing data will be required.
28	Pricing of Adjustments		
29	Subtler Procurements		
30	Termination	*	
31	Fraud or Falsification	X	
32	Disclosure of Information	X	
33	Reimbursement for Unallowable Costs		
Att 1	Technical Data and Computer Software Authorized Markings	X	Mandatory if Article 10a noncommercial technical data and/or Article 10b computer software or computer software documentation are subtler order deliverables.